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# ***JPRS Report*** ***Supplement***

## **East Europe**

### ***Recent Legislation***

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# East Europe Supplement Recent Legislation

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**Decree on Employment, Social Welfare**

91BA0169A Sofia DURZHAVEN VESTNIK  
in Bulgarian 30 Nov 90 pp 4, 6

[Decree No. 117 of the Council of Ministers, dated 20 November 1990, on the Definition of the Basic Functions and Missions of the Ministry of Employment and Social Welfare]

[Excerpts] The Council of Ministers hereby decrees, as follows:

Article 1. (1) It accepts Basic Functions and Missions of the Ministry of Employment and Social Welfare as per Appendix No. 1 [not included here].

(2) The Ministry of Employment and Social Welfare shall approve regulations for the structure and activities of the ministry on the basis of the current functions and missions.

Article 2. It approves a limit for the total personnel strength of the Ministry of Employment and Social Welfare's central administration of 135 slots, including a first deputy minister, three deputy ministers, and a general secretary who shall also fulfill the duties of parliamentary secretary.

Article 3. (1) It establishes the following as juridical persons in the Ministry of Employment and Social Welfare, effective as of 1 December 1990:

1. A National Social Welfare Center with headquarters in Sofia, the object of whose activities shall be: social assistance to the population; organization and management of the activity of the territorial centers, social welfare institutions, and foster home care of orphans.

2. A National Employment Office with headquarters in Sofia, the object of whose activities shall be the organization, management, coordination, and monitoring of: activity to provide the population with employment; labor migration and immigration; the use of foreign manpower; registration, redirection, vocational training, and social protection of unemployed persons; and information and advertising activity.

(2) Specialized units in the Ministry of Employment and Social Welfare are given in Appendix No. 2.

Article 4. (1) The assets and liabilities on the balance sheet as of 1 October 1990, as well as other rights and obligations of the former Committee on Employment and Social Security, shall be assumed by the Ministry of Employment and Social Welfare.

(2) As of 1 December 1990, the Social Welfare Administration shall be transferred from the Ministry of Public Health to the National Social Welfare Center.

Article 5. The Ministry of Employment and Social Welfare and the Ministry of Finance shall determine the funds for support, and the personnel strength, of the specialized units in the ministry indicated in Appendix No. 2.

**Final Provision**

One paragraph only. The Council of Ministers hereby rescinds Appendix No. 12 to Article 1, Paragraph 1, of Decree No. 63/1990 of the Council of Ministers on the Definition of the Basic Functions and Missions of Ministries and Other Departments (DURZHAVEN VESTNIK, Issue No. 50/1990).

Belcho Belchev  
Deputy Chairman of the  
Council of Ministers

Pancho Burkalov  
General Secretary of the  
Council of Ministers

**Appendix No. 1. Basic Functions and Missions of the Ministry of Employment and Social Welfare**

[passage omitted]

Article 11. The ministry shall implement international cooperation, as follows:

1. by participating in the work of the International Labor Organization, by representing the state before its bodies, and by coordinating the work in fulfillment of the obligations resulting therefrom;

2. by participating in the work of, and representing the country in, the International Social Security Association;

3. by effecting bilateral and multilateral cooperation with other countries in the area of labor and social security;

4. by entering into international understandings and agreements in the area of labor and social security;

5. by participating in joint scientific research work on labor and social security problems with other countries.

Article 12. The ministry shall conduct scientific research activity and coordinate scientific research in the area of employment, social protection, living standard, income, and wage differentiation.

Article 13. The ministry shall publish a journal PROBLEMI NA TRUDA [Problems in Labor], a weekly newspaper TRUDOVA BORSA [Labor Exchange], and INFORMATSIONEN BYULETIN PO ZAETOSTTA I SOTSIALNITE GRIZHI [Information Bulletin on Employment].

Article 14. The ministry shall issue binding orders, draw up charges in accordance with the established procedure in the instances provided for, and issue punitive decrees for violations committed in the area of employment and social welfare.

Article 15. The ministry shall restrain the commission of acts by firms and organizations in violation of the provisions of current legislation and other prescriptive enactments in the area of labor juridical relations, social security, and social welfare.

**Appendix No. 2. Specialized Units in the Ministry of Employment and Social Welfare**

1. National Social Welfare Center and regional centers.
2. Social Security Main Administration and regional social security administrations.
3. National Qualification and Requalification Center—training facilities.
4. National Employment Office and territorial labor offices.
5. Foreign Work Force Administration.
6. Occupational Safety and Health Inspectorate and regional centers.
7. Labor Scientific Research Institute.
8. Scientific Research Institute of Occupational Safety and Health and Ergonomics.
9. Information and Computer Center.
10. The journal PROBLEMI NA TRUDA.
11. Information bulletin on employment and social welfare.
12. The weekly newspaper TRUDOVA BORSA.

**Amendments to Ukase 56 on Economic Activity**

91BA0182A Sofia DURZHAVEN VESTNIK  
in Bulgarian 18 Dec 90 pp 1-4

[Law on Changes in and Additions to Ukase No. 56 on Economic Activity, adopted by the Grand National Assembly on 6 December 1990 and sealed with the official seal, signed by Chairman of the Grand National Assembly Nikolay Todorov. For the original text of Ukase No. 56, please see FBIS EEU 89-015, 25 January 1989, pp 6-21. The following FBIS articles contain additional modifications: FBIS EEU 89-041, 3 March 1989, pp 23-24; and FBIS EEU 90-061, 29 March 1990, p 3.]

[Text] Ukase No. 144, issued in Sofia on 13 December 1990, sealed with the official seal, and signed by President of the Republic Zhelyu Zhelev.

On the basis of Article 84 and Article 92, Paragraph 8 of the Constitution of the Bulgarian People's Republic, I hereby decree that there shall be published in DURZHAVEN VESTNIK the Law on Changes in and Additions to Ukase No. 56 on Economic Activity, adopted by the Grand National Assembly on 6 December 1990.

**Law on Changes in and Additions to Ukase No. 56 on Economic Activity (published in DURZHAVEN VESTNIK No 4/1989; amended in No. 16/1989; changed and augmented in Nos. 38, 39, and 62/1989 and in Nos. 21 and 31/1990)**

Paragraph 1. Article 13 is changed as follows:

"Article 13. (1) Firms shall dispose freely of their property except in cases specified by law.

"(2) State and obshtina firms shall sell capital assets by decision of the boards of managers at auction on the basis of an appraisal by independent experts (expert firms). Real estate shall be sold and conveyed to associations of state and obshtina firms by decision of the executive body in accordance with Article 11, Section 3, Paragraph 1, Subparagraphs 'a' and 'b.'

"(3) The following may not be experts:

"1. persons who have been convicted of deliberate crimes or who have been deprived of the rights to hold positions as accountants;

"2. persons who have an interest in the sale.

"(4) Experts shall have no right:

"1. to communicate to third persons facts and circumstances connected with the appraisal that may be of significance in the purchaser's decisionmaking;

"2. to acquire personally or through third persons property sold in accordance with section 2;

"3. to participate in a company if they have appraised the pro rata participation of the partners or associates."

Paragraph 2. Section 1 of Article 15a is rescinded, and Sections 2, 3, 4, 5, and 6 shall become Sections 1, 2, 3, 4, and 5, respectively.

Paragraph 3. Section 1 of Article 17 is changed as follows:

"Article 17. (1) Firms may carry on economic activity in keeping with the subject matter of their registration and any other economic activities except those forbidden by law."

Paragraph 4. Article 18 is changed as follows:

"Article 18. (1) The Council of Ministers may ban the exports of goods and services specified by them or may establish export quotas and export fees for a period of one year.

"(2) The Council of Ministers may ban imports and establish import quotas for goods and services from countries that apply similar measures to Bulgarian goods and services, as well as in fulfillment of international treaties to which the Bulgarian state is a party.



"(3) The Council of Ministers may establish conditions for making investments abroad, including the participation in companies, the acquisition of securities and real estate, as well as the transfer and maintenance of bank accounts abroad. The conditions for investment must not create a permit system that would make a particular investment advisable."

Paragraph 5. Article 19 is changed as follows:

"Article 19. (1) The conditions of, and restrictions on, exports and imports in accordance with the preceding article, and the bodies that are charged with enforcing and monitoring their observance shall be published in DURZHAVEN VESTNIK. It is forbidden to grant administrative jurisdiction involving foreign economic activity to firms and other economic organizations.

"(2) The body that is charged with the enforcement and monitoring of the observance of the conditions and restrictions in accordance with the preceding article must make available to all interested parties timely information about the specified quotas and grant them equal competitive conditions for carrying on imports, exports, or investments abroad.

"(3) The body under the preceding article must publish in DURZHAVEN VESTNIK the procedure and conditions for participation in quotas. It shall take action within three days on requests that are submitted. When the pertinent document is to be issued on the basis of competitions, the time limit shall run from the conclusion of the competition. A refusal to issue the requested document must be substantiated. The document or the refusal to issue the document in question whereby the opportunity of concluding a foreign economic transaction is permitted or barred is appealable under the procedure of the Law on Administrative Proceedings."

Paragraph 6. In Article 25, Section 1 is changed as follows:

"Article 25. (1) Persons who have no labor juridical relationship with a firm may be elected members of the board of managers or chairmen of the board, with the exception of:

"1. people's representatives;

"2. members of the government;

"3. the chairmen, deputy chairmen, and secretaries of oblast and obshtina people's councils, commission chairmen, as well as mayors, deputy mayoral secretaries;

"4. the general secretary, secretaries, chiefs of departments, heads of sectors, and advisers of the Council of Ministers;

"5. the chairmen, deputy chairmen, chiefs of administrations, and the principal experts of the Council of Ministers' committees;

"6. the deputy ministers, the chiefs of administrations, the principal experts in the ministries, and their equivalents;

"7. the chairmen, deputy chairmen, general directors, and directors of the Bulgarian National Bank and of commercial banks in which there is more than 50-percent state participation;

"8. judges, arbiters, notaries, bailiffs, and prosecuting magistrates;

"9. extended-service personnel in the Armed Forces of the Republic and officer and noncommissioned-officer personnel of the Ministry of Internal Affairs;

"10. employees in the office of the president of the Republic."

Paragraph 7. Section 2 of Article 57 is rescinded.

Paragraph 8. In Article 59, the following changes are made:

1. Section 1 is rescinded.

2. Section 2 becomes Section 1.

3. Section 2, with the following content, is hereby created:

"(2) The following may not set up and participate in citizens' firms either personally or through figureheads:

"1. people's representatives and persons holding regular elective offices in state bodies of administration;

"2. employees in central and local bodies on a list adopted by the Council of Ministers;

"3. heads of state or obshtina firms and their deputies if the citizens' firms in which they are participating carry on economic activity that is competitive or interrelated with those of the state or obshtina firms."

Paragraph 9. In Article 87, the following changes and additions are made:

1. Section 1 is changed as follows:

"Article 87. (1) Firms with state and obshtina participation of more than 50 percent shall also pay a tax on the increase in wage funds."

2. Section 2 is changed as follows:

"(2) Firms shall pay a tax of 40 percent on profits. The taxable profits shall be determined according to the procedure specified in the Regulations for Application of Ukase No. 56 on Economic Activity."

3. Sections 4, 5, and 6, with the following content, are hereby created:

"(4) Taxable individual income under Article 13 of the Law on the Total Income Tax of the Proprietor of a One-Man Firm and That of a Participant in a Collective Firm shall comprise receipts minus the following deductions:

"1. incidental expenditures;

"2. outlays for capital assets purchased for production purposes;

"3. investment in stocks and state obligations;

"4. contributions for assistance to socially disadvantaged persons and to science, education, public health, culture, and environmental protection.

"(5) Liquidation payments on investment credits used by one-man, collective, and corporate citizens' firms shall be made from income or, as the case may be, from profits before taxes.

"(6) The tax levy under the preceding section is appealable according to the procedure of the Law on Administrative Proceedings."

Paragraph 10. Section 2 of Article 89 is changed as follows:

"(2) Firms, with the exception of citizens' firms producing goods and performing production services, shall sell part of their foreign exchange receipts to the state under the procedure established by the Council of Ministers."

Paragraph 11. In Article 90, the following changes are made:

1. Section 2 is changed as follows:

"(2) Interest on investment credits shall be paid from profits before the profits tax, and, for certain production processes and activities, liquidation payments on investment credits shall be paid in the same way."

2. Section 4, with the following content, is hereby created:

"(4) The conditions for the granting of bonuses, subsidies, and abatements envisaged by this Ukase shall be published in DURZHAVEN VESTNIK."

Paragraph 12. In Article 91, the following changes are made:

1. In Section 1, the words "et cetera" are deleted.

2. Section 2 is changed as follows:

"(2) In firms with over 50-percent state or obshtina participation, the base pay of workers, specialists, and managers shall be determined on the basis of three degrees of qualification: elementary, average, and superior."

3. Section 3 is rescinded.

Paragraph 13. Section 2 of Article 92 is changed as follows:

"(2) The increase of wage funds in firms with over 50-percent state or obshtina participation shall be subject to a tax to be paid according to the procedure

established by the Regulations for Application of Ukase No. 56 on Economic Activity."

Paragraph 14. Article 100 is changed as follows:

"Article 100. (1) Foreigners may carry on economic activity independently or together with a Bulgarian without establishing a firm, after registering the location of the economic activity in the country and filing a tax declaration.

"(2) The location of the economic activity shall be registered at the Bulgarian Chamber of Commerce and Industry, and the tax declaration shall be filed at the appropriate obshtina tax office.

"(3) The Council of Ministers may establish a permit system for the carrying on of certain economic activities by specifying and publishing in DURZHAVEN VESTNIK the requirements (conditions) for issuance of a permit."

Paragraph 15. In Article 101, the following changes and additions are made:

1. Section 1 is changed as follows:

"Article 101. (1) Foreigners may set up their own subsidiaries in accordance with the procedure of Article 100."

2. Section 2 is rescinded.

3. Section 3 is changed as follows:

"(3) The charter capital of the subsidiary shall be calculated in leva. At least \$20,000 and, in the case of a banking subsidiary, \$500,000 or the equivalent thereof in other convertible currency as the exchange rate as of the registration date must be paid into the charter capital. When the current value of the charter capital according to the balance sheet falls below the registered value, the current value must be registered, and, if it is less than the minimum, the subsidiary shall be declared in liquidation unless the foreigner supplements the charter capital."

4. The following Section 4 is hereby created:

"(4) The provisions for a limited liability corporation shall apply for the structure and organization of the subsidiary."

5. Sections 4, 5, and 6 become 5, 6, and 7, respectively.

Paragraph 16. Article 102 is changed as follows:

"Article 102. (1) Foreigners may open trade delegations in the country. The trade delegation shall be registered at the Bulgarian Chamber of Commerce and Industry. For maintenance of the registration, an annual state fee,

fixed by the Council of Ministers, shall be collected. No profits tax shall be collected on the delegation's activity.

"(2) The delegation shall not be a juridical person. It may not carry on economic activity in its own name on its own account."

Paragraph 17. Section 2 of Article 103 is changed as follows:

"(2) The Council of Ministers may specify economic branches, particular geographic regions, particular firms and corporations with charter capital over a specified amount in which over 49-percent foreign participation in a limited-liability company shall be allowed with a permit from a body that it appoints."

Paragraph 18. Sections 2 and 3 of Article 104 are rescinded.

Paragraph 19. In Article 105, the following changes and additions are made:

1. Section 1 is changed as follows:

"Article 105. (1) Foreigners may acquire shares of joint stock companies in the country under the procedure of this Ukase. The Council of Ministers may specify economic sectors, particular geographic regions, particular firms (and joint stock companies with charter capital above a certain amount) in which over 20-percent foreign participation in a joint-stock company shall be allowed with a permit from a body that it appoints. The same body may authorize acquisition of a stockholder's shares by a foreigner. The foreigners must pay the full amount of the recorded shares."

2. Section 2 is changed as follows:

"(2) The preceding section shall also apply to participation of companies in accordance with Article 103, Section 3, and to joint-stock companies with over 20-percent foreign participation."

3. Section 3 is rescinded.

4. Section 4 becomes Section 3.

Paragraph 20. The following Article 105a is hereby created:

"Article 105a. Foreigners must, within seven days of their acquisition, register at the Ministry of Finance the percentages of, and the shares of stock in, Bulgarian companies they possess."

Paragraph 21. Article 107 is changed as follows:

"Article 107. Insofar as this division does not provide otherwise, the provisions regarding the activity of subsidiaries, regarding independent economic activity in accordance with Article 100, and the activity of trade delegations and companies with foreign participation shall apply."

Paragraph 22. In Article 108, Section 2 is hereby created:

"(2) The profits of subsidiaries and of companies with foreign participation exceeding 49 percent and \$100,000 or the equivalent in other convertible currency shall be taxable at the rate of 30 percent of profits."

Paragraph 23. In Article 109, the following changes are made:

1. In Section 1, after the word "dividends," the words "including dividends from the subsidiary" shall be added.

2. Paragraph 1 of Section 2 is changed as follows:

"1. the dividend received, including the dividend from the subsidiary, provided that it is used for the purchase of shares and obligations in the country."

Paragraph 24. Article 122 is rescinded.

Paragraph 25. In Article 123, the following changes are made:

1. Section 1 is changed as follows:

"Article 123. (1) Companies with foreign participation and subsidiaries of foreigners may acquire in the territory of the country the right to build on, and the right to use, real property for a period of up to 70 years for their conduct of economic activity."

2. Sections 2 and 3 are rescinded.

Paragraph 26. Article 124 is changed as follows:

"Article 124. In the event of the dissolution of a company with foreign participation, the Bulgarian partner shall have a prior right to purchase the company's real property and the property rights to the real property, as well as ownership of the company. In the event of the dissolution of a subsidiary of a company with foreign participation but no Bulgarian partner, as well as when the Bulgarian partner does not exercise his right of purchase, the real property must be sold to a Bulgarian juridical person or to Bulgarian citizens at auction."

Paragraph 27. In the additional provisions, the following paragraphs are hereby created:

"Paragraph 2a. (1) When a foreigner carries on activity under Article 100 or 102 in violation of the law, his registration shall be canceled by the Sofia City Court on an action brought by the minister of finance or the prosecuting magistrate. The court's decision shall be appealable.

"(2) A foreigner whose registration has been canceled in accordance with the procedure of the preceding section may reregister the location of his economic activity or delegation in the country no sooner than five years later if, during this period, no administrative penalties in connection with his economic activity have been imposed on him.

"(3) A foreigner who carries on economic activity in the country without registration or without a permit, if such be required, shall be punished by a fine equal to twice the profits realized, but not less than 1,000 leva. The violation shall be determined by the executive bodies of the Ministry of Finance, and the punitive decree shall be issued by the minister of finance and shall be appealable under the procedure of the Law on Administrative Violations and Penalties.

"Paragraph 3a. Whenever there are deposited into the charter capital of a limited liability company, a joint-stock company, an unlimited liability company, and a corporate citizens' firm rights and properties for the transfer of which the law requires a special form, the written form shall suffice. In making the inscription in the firm register, the court shall check whether the transfer requirements envisaged by law have been observed."

#### **Interim and Final Provisions**

Paragraph 28. (1) Persons who under Article 59, Section 2, Paragraphs 2 and [digit illegible] have formed or are participants in citizens' firms prior to the entry into force of this

law must, within 45 days of its entry into force, dissolve the firms they have formed or in which they are participants and terminate their labor juridical relationship with such institutions or firms.

(2) If the actions under the preceding sections are not carried out within the indicated time limit, the labor contract shall be terminated without notice.

(3) A person who continues to carry on his duties as an employee after the termination of his labor contract shall, in accordance with Section 2, refund the labor remuneration he has unjustifiably received.

Paragraph 29. The Council of Ministers undertakes to issue an order on the holding of auctions within seven days after the entry into force of this law.

Paragraph 30. This law shall enter into force three days after its publication in DURZHAVEN VESTNIK, with the exception of Section 2 of Paragraph 9, which shall enter into force on 1 January 1991.

**Constitutional Law Amendment on Power Sharing**

91CH0240A Prague SVOBODNE SLOVO in Czech  
20 Dec 90 p 5

["Text" of Constitutional Law No....[number omitted, as published]/1990 Sb. amending Constitutional Law No. 143/1968 Sb. on the Czechoslovak Federation]

[Text] The Federal Assembly of the Czech and Slovak Federal Republic has passed the following constitutional law:

**Article I**

Constitutional Law No. 143/1968 Sb. on the Czechoslovak Federation—as modified and amended by Constitutional Laws Nos. 57/1969, 125/1970, 43/1971, 50/1975, 161/1989, 182/1989, 46/1990, 100/1990, 101/1990, 158/1990, 159/1990, 294/1990 and 295/1990 Sb.—is hereby amended as follows:

1. Article 4 shall read:

**Article 4**

(1) The economy of the Czech and Slovak Federal Republic is the integration of the economies of the Czech Republic and the Slovak Republic, respectively; it is based on a single domestic market, especially on a single currency and on the free movement of manpower, goods, and capital.

(2) The Czech Republic and the Slovak Republic participate in shaping the economic policies of the Czech and Slovak Federal Republic.

(3) State-owned property is property of the Czech and Slovak Federal Republic, property of the Czech Republic, and property of the Slovak Republic.

(4) Property of the Czech and Slovak Federal Republic is state-owned property that serves to ensure the said republic's functions in all spheres entrusted to it by a constitutional law of the Federal Assembly. All other state-owned property is property of the Czech Republic and the Slovak Republic, respectively. A law of the Federal Assembly determines ownership of the petroleum pipelines, of the transit gas pipeline, and of the supergrid's transmission lines.

(5) A law of the Federal Assembly may determine what other property (Article 10 of the Constitution) essential to ensuring society's needs, or to the development of the economy or to public welfare, may be owned only by the Czech and Slovak Federal Republic or by specific legal entities.

(6) Laws of the Czech National Council and the Slovak National Council, respectively, may determine what other property (Article 10 of the Constitution) essential to ensuring society's needs, or to the development of the economy or to public welfare, may be owned only by the Czech Republic and the Slovak Republic, respectively, or by specific legal entities.

(7) Laws of the two national councils determine which items of property of the Czech Republic and the Slovak Republic, respectively, belong to communities.

2. In Paragraph 1 of Article 7, the word "exclusive" in the introductory sentence is deleted.

3. In Paragraph 1 of Article 7, Item e) is deleted, and the designation of what up to now has been Item f) is changed to Item e).

4. Paragraph 2 of Article 7 shall read:

(2) The provisions of Paragraph 1, Item a), do not affect the powers of the Czech Republic and the Slovak Republic, exercised in agreement with the foreign policy of the Czech and Slovak Federal Republic,

a) To conclude cooperation agreements with parts of federal or union states in the spheres of trade, the economy, culture, science, education, health care and sports, and also in press, radio and television matters;

b) On the basis of authority delegated by the Czech and Slovak Federal Republic, to conclude international agreements within the scope of their legislative powers;

c) To represent the Czech Republic or the Slovak Republic and to receive missions representing foreign political units in the spheres specified in Item a); the status of such missions is governed by the laws applicable on the territory of the host political unit.

5. Article 8 is deleted.

6. Article 9 shall read:

**Article 9**

The Czech Republic and the Slovak Republic exercise power in all matters over which a constitutional law of the Federal Assembly has not delegated power to the Czech and Slovak Federal Republic.

7. Article 10 shall read:

**Article 10**

In the sphere of economic strategy, the Czech and Slovak Federal Republic possesses power:

a) To formulate the strategy and conceptual plans for the Czech and Slovak Federal Republic's economic and social development, including the development of science and the joining of international economic unions; and to determine the tools for the strategy's implementation, in accordance with the provisions of the present constitutional law;

b) To formulate structural conceptual plans that are of federal significance; and

c) To regulate strategic planning by statute.

8. Article 11 shall read:

**Article 11**

(1) Uniform principles of fiscal and budgetary policy, mutually agreed upon by the governments of the Czech and Slovak Federal Republic, the Czech Republic and the Slovak Republic, shall apply to administering the federation's state budget and the state budgets of the two republics.

(2) The Czech and Slovak Federal Republic, the Czech Republic and the Slovak Republic manage their public finances independently. The federation's state budget controls the public finances of the Czech and Slovak Federal Republic, and the republics' state budgets control their public finances. The Federal Assembly approves the federation's state budget and enacts it into its law, and the two national councils approve the state budgets of their respective republics and enact them into their laws. The budgets approved and enacted into laws are always annual budgets for the calendar year.

(3) The state budget of each republic embraces the fiscal relations with all spheres of the economy and public administration, except the activities financed from the federation's state budget. The state budget of each republic provides grants-in-aid for the budgets of the communities.

(4) The revenue of the federation's state budget comprises: the receipts of federal agencies and their subordinate organizations; the taxes and payments the Federal Assembly levies by its laws; the sharing of such taxes and payments; and other revenues. If revenue from a specific tax or payment is to be shared with the state budgets of the republics, a law of the Federal Assembly determines the federation's share and sets the rules according to which the two republics participate in ensuring the share of revenue to which the federation's state budget is entitled.

(5) The federation's state budget finances:

a) Expenditures for the defense of the Czech and Slovak Federal Republic, for the operations of federal agencies and the formation of federal stockpiles, and also grants to federal organizations;

b) Selected specific programs, if their scope and significance to the federation so require; and

c) Other expenditures specified in the Federal Assembly's budget act.

(6) A law of the Federal Assembly sets the rules for administering the federation's state budget, and laws of the national councils set the rules for administering the state budgets of the republics.

(7) The Czech and Slovak Federal Republic, the Czech Republic and the Slovak Republic may establish special-purpose funds that are linked to their respective state budgets; such funds are established by law.

(8) The Czech and Slovak Federal Republic sets the general principles of the policy on subsidies and of depreciation policy.

9. Paragraph 2 of Article 12 shall read:

(2) Laws of the Federal Assembly regulate:

a) The system of taxes and payments in the Czech and Slovak Socialist Republic;

b) Sales tax and import tax;

c) In the case of taxes and payments levied on enterprises and business associations, and of individual income tax as well, the circle of taxpayers, the source of revenue, the tax base and the initial tax rate, including possible departures in the construction of the mentioned taxes and payments in the two republics; and

d) The fees which, by their nature, relate exclusively or predominantly to foreign countries or are associated with the federal agencies' exercise of their functions.

10. In Paragraph 4 of Article 12, the word "exclusive" in the first sentence and the entire second sentence are deleted.

11. Paragraph 2 of Article 13 shall read:

(2) The Czech and Slovak Federal Republic possesses power to legislate and administer customs duties, and to issue customs tariffs.

12. Paragraph 2 of Article 14 shall read:

(2) The central bank of the Czech and Slovak Federal Republic is the Czechoslovak State Bank. It sets and implements uniform monetary policy. Parts of the Czechoslovak State Bank are its Central Office for the Czech Republic and Central Office for the Slovak Republic. The Czechoslovak State Bank's governing board consists of the bank's governor; two deputy governors, one of whom is a citizen of the Czech Republic, while the other is a citizen of the Slovak Republic; and equal numbers of representatives from the Czechoslovak State Bank's Central Office for the Czech Republic and its Central Office for the Slovak Republic. If the governor is a citizen of the Czech Republic, when his term expires the next governor will be a citizen of the Slovak Republic, and conversely.

13. The following Paragraph 3 is added to Article 14:

(3) A law of the Federal Assembly determines the status and legal relations of the Czechoslovak State Bank and its agencies, and the relationship between the bank and other banks. A law of the Federal Assembly determines also the status and legal relations of other banks and savings associations.

14. Article 15 shall read:

**Article 15**

In the sphere of price policy, the Czech and Slovak Federal Republic possesses power:

a) To formulate the concept of price policy, and to promulgate policy measures on price regulation; and



- b) To regulate prices by statute.

15. Article 16 shall read:

**Article 16**

In the sphere of foreign economic relations, the Czech and Slovak Federal Republic possesses power:

- a) To formulate the principles and concept of the Czech and Socialist Republic's foreign economic policy;
- b) To conclude international agreements on trade and economic cooperation, and to represent the Czech and Slovak Federal Republic in international trade relations;
- c) To determine the tools of foreign trade policy, in cooperation with the Czech Republic and the Slovak Republic; and
- d) To regulate foreign economic relations by statute.

16. Article 17 shall read:

**Article 17**

In the sphere of the economy, the Czech and Slovak Federal Republic possesses power:

- a) To formulate joint principles of economic policy, including principles of the policies on raw materials, fuels and energy, and on agriculture, to the extent that they are of federal significance;
- b) To formulate the principles for ensuring economically the defense capability of the Czech and Slovak Federal Republic; and
- c) To regulate by statute the generation, distribution and consumption of electricity, gas and heat.

17. Article 18 is deleted.

18. Article 19 shall read:

**Article 19**

In the sphere of transportation, the Czech and Slovak Federal Republic possesses power:

- a) To regulate by statute matters pertaining to transport, transportation facilities and routes;
- b) To set uniform rules for passenger and freight service, and state standards for the inspection of vehicles, transportation facilities and routes;
- c) To formulate the principles of transportation policy, in cooperation with the Czech Republic and the Slovak Republic;
- d) To administer and oversee maritime shipping and air transport; and
- e) To direct the organization and functioning of the state administration of rail transport.

19. Article 20 shall read:

**Article 20**

In the sphere of communications, the Czech and Slovak Federal Republic possesses power:

- a) To regulate by statute all postal and telecommunications matters;
- b) To set uniform rules for the operation of the postal, telecommunication and radiocommunication services, and to set their rates;
- c) To issue postal stamps and stamped stationary;
- d) To organize a unified postal system; and
- e) To organize and administer a unified telecommunications system.

20. Article 21 shall read:

**Article 21**

In the environmental sphere, the Czech and Slovak Federal Republic possesses power:

- a) To regulate by statute basic questions pertaining to the living environment;
- b) To regulate by statute the state supervision of matters pertaining to nuclear safety;
- c) To formulate the concept of the Czech and Slovak Federal Republic's environmental policy;
- d) To formulate, in cooperation with the Czech Republic and the Slovak Republic, the concept of a nationwide information system on the living environment, linked to the international information systems in this field; and
- e) To carry out international cooperation by the Czech and Slovak Federal Republic, and to coordinate the international cooperation that is carried out by the Czech Republic and the Slovak Republic.

21. Article 21a is deleted.

22. Article 22 shall read:

**Article 22**

In the sphere of labor, wages and social policy, the Czech and Slovak Federal Republic possesses power:

- a) To regulate by statute labor relations, employment and collective bargaining, and to ratify international agreements in this sphere;
- b) To regulate by statute the development of wages, the minimal wage, minimal wage rates, and the premiums to which workers are entitled;
- c) To regulate by statute the wages and salaries at federal agencies and federal organizations;

d) To regulate by statute pension insurance and sickness insurance, with the exception of their organization and procedures for handling claims; and

e) To regulate by statute the amounts of the state social security benefits and the subsistence level, and to formulate the principles of welfare care.

23. Article 23 shall read:

#### Article 23

(1) In the sphere of state statistics, the Czech and Slovak Federal Republic possesses power:

a) To regulate by statute the conditions for gathering, and preventing the misuse of, comparable statistical information that is necessary to evaluate the federation's development and to fulfill obligations stemming from international agreements;

b) In cooperation with the Czech Republic and Slovak Republic:

1) to determine the statistical indicators necessary for evaluating the federation's development, and the manner of gathering statistical information for that purpose,

2) to conduct statistical surveys in accordance with the special needs of federal agencies;

c) To determine the statistical indicators that are necessary to fulfill obligations stemming from international agreements and to supply international organizations with statistical information about the Czech and Slovak Federal Republic.

(2) In the sphere of accounting, the Czech and Slovak Federal Republic possesses power to regulate by statute the conditions and requirements for keeping dependable accounts.

24. In Article 24, Item d), the phrase "economic competition" is deleted; the phrase "industrial property" replaces "industrial rights"; and the word "metrology" replaces the phrase "metrological services."

25. In Article 24, Item e) shall read:

e) Statutory regulation to protect economic competition; a law of the Federal Assembly determines the division of this power between the Czech Republic and the Slovak Republic.

26. In Article 25 the phrase "specified in Articles 10 through 28a with the participation of the agencies" replaces the phrase "joint powers in cooperation with the agencies."

27. Article 26 is deleted.

28. Article 27 shall read:

#### Article 27

(1) In the sphere of internal order and security, the Czech and Slovak Federal Republic possesses power:

a) To regulate by statute: given names and surnames; the registers of births, marriages, and deaths; identity cards; travel documents; the registration of residents; residency permits for foreigners; and the status of refugees;

b) To regulate the establishment, status, rights, and other relations of the Czech and Slovak Federal Republic's Armed Security Forces, as well as the establishment, status, rights and other relations of the security services; this does not affect the rights of the Czech Republic and the Slovak Republic to establish their own armed security forces and to regulate their status, rights and other relations.

(2) A law of the Federal Assembly defines the additional powers of the Czech and Slovak Federal Republic in matters pertaining to internal order and security.

29. Article 28a, Paragraph 2, shall read:

(2) A law of the Federal Assembly specifies the organization of the Czech and Slovak Federal Republic's control organs.

30. In Article 28a, Paragraph 3 is deleted.

31. After Article 28a, the following Article 28b is inserted:

#### Article 28b

(1) The agencies of the Czech and Slovak Federal Republic exercise power in matters over which a constitutional law of the Federal Assembly has delegated power to the said republic. If the law of the Federal Assembly so specifies, the administrative and judicial agencies of the Czech Republic and the Slovak Republic also exercise [concurrent] power in such matters.

(2) If a constitutional law of the Federal Assembly does not delegate to agencies of the Czech and Slovak Federal Republic the exercise of the powers specified in Articles 10 through 28a, then agencies of the Czech Republic and the Slovak Republic exercise the said powers.

32. In Paragraph 1 of Article 36, Item d) shall read:

d) To adopt the federation's state budget, to oversee its execution, and to approve its report balance of revenue and expenditure.

33. The following Item i) is added to Article 36, Paragraph 1:

i) To establish by law the Czech and Slovak Federal Republic's state decorations.

34. In Article 36, the following sentence is added at the end of Paragraph 2:

The Armed Forces of the Czech and Slovak Federal Republic may be sent outside its territory only with the Federal Assembly's consent.

35. Paragraph 1 of Article 37 shall read:

(1) The Federal Assembly has power to legislate on matters pertaining to basic rights and freedoms, to the extent specified by constitutional laws; and on matters over which power has been delegated to the Czech and Slovak Federal Republic, to the extent specified in Article 7, Paragraph 1, Articles 10 through 28a, and Article 36, Paragraph 3, of the present constitutional law.

36. In the first sentence of Article 37, Paragraph 2, the phrase "and foster care" is inserted after the word "family"; the phrases "Civil Code" and "Criminal Code" are deleted; and the following text is added at the end of the first sentence: "the Law on Exchanges, the Law on the System of Securities, the Commercial Code, the Law on Bills of Exchange and Checks, the laws regulating court procedure, the Law on Expert Witnesses and Interpreters, the laws on the rectification of injustices and on compensation for damage caused by state agencies, and the Law on Regional Planning and the Building Code." The second sentence is deleted.

37. Paragraph 3 of Article 37 shall read:

(3) If the legal system's uniformity so requires, the Federal Assembly shall amend legislation on matters pertaining to national and ethnic minorities, churches and religious societies, health care, veterinary medical care, control of plant diseases, the system of primary and secondary education, copyright, and real estate records.

38. After Paragraph 3 of Article 37, the following Paragraph 4 is inserted:

(4) The Federal Assembly shall regulate by law the Czech and Slovak Federal Republic's public holidays, anniversaries and days of observance, and shall determine the days of rest.

39. In Paragraphs 1 and 2 of Article 38, the phrase "in Article 37, Paragraphs 1 and 2," replaces the phrase "in Article 37, Paragraph 1, Item b), and Article 37, Paragraph 2."

40. Paragraph 3 of Article 38 is deleted.

41. Article 39 is deleted.

42. In Paragraph 2 of Article 42, Items b) and g) are deleted, and the letters designating the remaining items are changed accordingly.

43. In what up to now has been Item c) of Article 42, Paragraph 2, the phrase "Paragraph 2" replaces the phrase "Item c)."

44. What up to now has been Item d) of Article 42, Paragraph 2, shall read:

d) The legislative bills that determine the manner of raising revenue for the federation's state budget and set the rules for administering the said budget.

45. What up to now has been Item h) of Article 42, Paragraph 2, shall read:

h) The legislative bills of the laws specified in Article 12, Paragraph 2.

46. In what up to now has been Item i) of Article 42, Paragraph 2, the phrase "Paragraph 3" replaces the phrase "Paragraph 2."

47. In what up to now has been Item l) of Article 42, Paragraph 2, the phrase "in Article 21, Paragraph 2, and" is deleted.

48. In what up to now has been Item n) of Article 42, Paragraph 2, the phrase "as well as Article 28a" is deleted.

49. In the first sentence of Article 45, Paragraph 3, a semicolon is inserted after the word "promulgated," and the phrase "in the manner that a law of the Federal Assembly specifies" is replaced by the passage "a law of the Federal Assembly determines the manner in which the laws of the Federal Assembly, and the statutory regulations and other measures of the Czech Republic's and Slovak Republic's agencies are promulgated."

50. Article 46 shall read:

#### Article 46

A law of the Federal Assembly regulates the principles of the Federal Assembly's rules of procedure, the mutual relations between its two houses, its relations with the government of the Czech and Slovak Federal Republic and externally, the commencement and cessation of a deputy's mandate, the qualifications required of its deputies, and the legal status and powers of the Office of the Federal Assembly.

51. The following Paragraph 3 is added to Article 61:

(3) The Chancellery procures the goods and services associated with performing the functions of the Czech and Slovak Federal Republic's President and with his political and public activities; a law of the Federal Assembly regulates the details.

52. Paragraph 2 of Article 76 shall read:

(2) In ensuring performance of the federation's functions, the National Assembly coordinates the solution of questions stemming from the need to have uniform federal policies.

53. Item e) of Article 77, Paragraph 1, shall read:

e) The draft of the federation's state budget, and the draft report balance of its revenue and expenditure.

54. The following Paragraph 3 is added to Article 77:

(3) The Office of the Czech and Slovak Republic's Government procures the goods and services associated with the activities of the said government; a law of the Federal Assembly regulates the details.

55. Article 81 shall read:

#### Article 81

(1) Federal ministries and other federal administrative agencies exercise power within the scope of the federation's powers.

(2) Constitutional laws of the Federal Assembly establish the federal ministries and other federal central agencies of state administration that are headed by a member of the Czech and Slovak Federal Republic's Government; and laws of the Federal Assembly establish other federal administrative agencies.

56. Article 83 is deleted.

57. Article 85a is deleted.

58. In Article 107, Paragraph 1, Item d), the phrase "the medium-term plan of the national economy's development and" is deleted.

59. In Article 135, Paragraph 3 is deleted.

60. In Article 137, Paragraph 1, Item e), the phrase "state plans of the national economy's development" is deleted.

61. In Article 142, Paragraph 2, the first sentence is deleted.

#### Article II

Only laws of the Czech National Council and Slovak National Council, respectively, can regulate the system and status of republic agencies specified in Chapter 7 of Constitutional Law No. 143/1968 Sb. on the Czechoslovak Federation, as modified and amended by subsequent regulations; this restriction does not apply to Article 107, furthermore to Articles 138, 139, and 139a, in the case of [delegated] powers of the republics' state agencies to issue statutory regulations for implementing the Federal Assembly's laws.

#### Article III

1. The laws and other statutory regulations specified in the first sentence of Article 144, Paragraph 1, as well as the laws of the Federal Assembly and other statutory regulations of the Czech and Slovak Federal Republic's state agencies that were issued before the present constitutional law becomes effective and regulate matters over which the federation does not have power, may be amended, respectively, only by laws of the Czech National Council and the Slovak National Council, and by other statutory regulations of the republics' state agencies.

2. A law of the Federal Assembly shall regulate the manner of settling the property rights and other legal relations of organizations established by, or on the basis of, the statutory regulations specified in Paragraph 1.

#### Article IV

In Article 10 of Constitutional Law No. 100/1960 Sb. on the Constitution of the Czech and Slovak Federal Republic, as modified and amended by subsequent regulations, all of Paragraph 2 and the first paragraph's number are deleted.

#### Article V

The Federal Assembly's Presidium is hereby authorized to publish the full text of Constitutional Law No. 143/1968 Sb. on the Czechoslovak Federation.

#### Article VI

The present constitutional law will become effective as of 1 January 1991.

#### Law on Inventions, Industrial Designs, Innovations

91CH0240B Prague SVOBODNE SLOVO in Czech  
20 Dec 90 pp 6-7

["Text" of Law No....[number omitted, as published]/1990 Sb. on Inventions, Industrial Designs, and Innovation Proposals]

[Text] The Federal Assembly of the Czech and Slovak Federal Republic has passed the following law:

#### Section 1

##### Law's Purpose

The purpose of the present law is to regulate the rights and obligations stemming from the conception and use of inventions, industrial designs, and innovation proposals.

#### PART ONE

#### INVENTIONS

##### Chapter I

##### Patents of Invention

##### Section 2

The Federal Patent Office (hereinafter: the Office) grants patents for inventions that meet the conditions specified in the present law.

##### Section 3

##### Patentability of Inventions

1. Patents are granted for inventions that are novel, the products of inventive activity, and useful in industry.

2. The following in particular are not considered inventions:

- a) Discoveries, scientific theories, and mathematical methods;
- b) The mere external appearance of articles of manufacture;
- c) The plans, rules, and methods of intellectual activity;
- d) Computer programs; and
- e) The mere presentation of information.

#### Section 4

##### Exclusion of Patentability

Patents are not granted:

- a) For inventions that are in conflict with the public interest, especially with the principles of humaneness and morality;
- b) For methods of preventing, diagnosing and treating human and animal diseases;
- c) For plant varieties, livestock breeds, and the biological methods of their reproduction and breeding, with the exception of patentable microorganisms and biotechnological processes used in industry, including the products produced with their help.

#### Section 5

##### Novelty

1. An invention is new if it is not a part of the prior art.
2. The prior art is everything that existed before the date as of which the applicant for a patent enjoys a right of priority (Section 27) that has been published in the Czech and Slovak Federal Republic or abroad.
3. The prior art includes also the specifications of patent applications filed in the Czech and Slovak Federal Republic with earlier priority dates, if the applications have been published (Section 31) on or after the applicant's priority date. This applies also to international applications for patents in the Czech and Slovak Federal Republic under an international convention (hereinafter: convention applications). For the purpose of this provision, patent applications that are kept secret pursuant to special regulations are considered published 18 months after the priority date.
4. The publication of an invention is not prior art if it did not occur more than six months before the filing of the patent application and stems directly or indirectly
  - a) From an obvious attempt to defraud the applicant or his heir or assignee;
  - b) From the fact that the applicant or his heir or assignee exhibited the invention at an official or officially recognized exhibition, in accordance with an international convention.<sup>1</sup> In this case the applicant, when filing his

patent application, must state that the invention was exhibited; furthermore, within four months after filing he must attach a certificate that the invention was exhibited in accordance with the international convention.

#### Section 6

##### Inventive Activity

1. The invention is a product of inventive activity if it is not anticipated by an expert as being obvious from the prior art.
2. When evaluating inventive activity, however, the specifications of patents that were not published (Section 31) by the applicant's priority date do not matter.

#### Section 7

##### Industrial Utility

An invention has industrial utility when it provides a consistent commercial benefit.

##### Right to a Patent

#### Section 8

1. The original inventor or his legal heir has a right to a patent.
2. The original inventor is one who developed it through his own creative work.
3. Coauthors have the right to a patent to the extent that they participated in developing the invention.

##### A Company Invention

#### Section 9

1. When the original inventor created the invention in fulfillment of his relationship with an employer (hereinafter: employment relationship), the right to the patent transfers to the employer unless otherwise established by a written contract.
2. An inventor who developed an invention in the employment context is required to notify his employer immediately in writing and pass to him all necessary documentation required to evaluate the invention.
3. The right to an invention patent reverts to the original inventor if his employer fails to exercise that right within three months following notification pursuant to Paragraph 2. Neither the employer nor the original inventor may disclose the invention to a third party during that period.
4. The original inventor who in the course of his employment devised an invention may claim a fair bonus from his employer if the latter has exercised his right to a patent of invention. The amount of a fair bonus depends on the technical and economic significance of the invention and on the revenue potential of the invention's use or other application but with due consideration for the employer's material contribution toward devising the invention and for the

scope of the original inventor's duties as an employee. The original inventor is entitled to an additional settlement if the bonus already paid him becomes obviously incommensurate with the revenue from the invention's subsequent use or other application.

#### Section 10

Termination of the original inventor's employment with the employer does not affect the rights and obligations stemming from the provisions of Section 9.

#### Patent's Effect

#### Section 11

1. The patentee (Section 34) has exclusive right to use the invention, to permit other persons to use it or to assign the patent to them.

2. The patent becomes effective as of the date when its granting has been announced in VESTNIK FEDERALNIHO URADU PRO VYNALEZY (hereinafter: the Office's journal).

3. The applicant for a patent is entitled to fair compensation from anyone who uses the invention's subject matter after the application's publication (Section 31). The right to compensation arises as of the date when the patent becomes effective.

4. When a convention application is filed for a patent in the Czech and Slovak Federal Republic and has already been published in accordance with the international convention, the applicant is entitled to fair compensation pursuant to Paragraph 3 only after publication of the application's Czech or Slovak translation (Section 31).

#### Section 12

The patent claims determine the scope of the protection that the patent provides. In case of ambiguity, the invention's description or possible drawings are used to interpret the meaning of words and expressions in the patent claims.

#### Section 13

1. An invention is used by a person who in the course of his business manufactures, markets, or utilizes an article of manufacture that is the subject matter of the invention, or who in the course of such activity employs a process that is the subject matter of the invention.

2. A patent granted for a production process protects also the articles of manufacture made directly by the given process; similar articles of manufacture are considered to have been made by the protected process, unless the opposite is proved.

#### Section 14

1. Permission (a license) to use a patented invention is granted in writing (hereinafter: licensing agreement).

2. A licensing agreement becomes binding on third parties when it has been recorded in the register of patents (Section 69).

#### Section 15

A patent is assigned by written contract that becomes binding on third parties when the contract has been recorded in the register of patents.

#### Section 16

##### Copatentees

1. When two or more persons own the same patent (hereinafter: Copatentees), the general rules of tenancy in common<sup>2</sup> govern their mutual relations.

2. In the absence of agreement to the contrary, each Copatentee has a right to use the invention.

3. In the absence of agreement to the contrary, a valid licensing agreement requires the consent of all Copatentees; any one of the Copatentees can independently file suit for infringement of the patent.

4. Assignment of the patent requires the consent of all Copatentees. Without the consent of all the other Copatentees, a Copatentee may assign his share of the patent only to another Copatentee; a Copatentee may assign his share to a third party only if none of the other Copatentees has accepted within one month his written offer to assign his share.

#### Limitation of Patent's Effect

#### Section 17

1. The patent provides no protection against a person (hereinafter: the Prior User) who used, or undertook demonstrable measures to use, the invention before the priority date (Section 27), independently of the original inventor or of the patentee.

2. If the Prior User and the patentee are unable to reach agreement, the Prior User may go to court, or to the commercial arbitration board, for recognition of his right by the patentee.

#### Section 18

1. There is no infringement of the patent if the protected invention is used:

a) On ships of other countries that are signatories to international conventions<sup>3</sup> which are binding also on the Czech and Slovak Federal Republic (hereinafter: Union



Countries), in the hull, machinery, tackle, instruments, and other equipment of the ships while they are temporarily or accidentally in the waters of the Czech and Slovak Federal Republic, provided the mentioned articles are used only for the needs of the ships; or

b) During the stopover or travel of the Union Countries' aircraft and vehicles, or in the subassemblies of the said aircraft and vehicles, while they are temporarily or accidentally in the Czech and Slovak Federal Republic.

2. The dispensing of medicines by pharmacies on the basis of doctors' prescriptions does not constitute infringement of patent rights.

## Section 19

### Offer To License

1. If the applicant or the patentee declares before the Office his willingness to grant anyone a right to use the invention (an offer to license), any person who accepts the offer and so informs the applicant or the patentee in writing gains a right to use the invention. In the register of patents the Office endorses the patent "licenses by right."

2. Once declared, the offer to license cannot be revoked.

3. The right to claim the grant of a license does not affect the applicant's or patentee's right to royalties.

4. The renewal fees for a patent that the patentee has offered to license according to Paragraph 1 are only half the normal renewal fees required by separate regulations.<sup>4</sup>

## Section 20

### Compulsory License

1. When a licensing agreement has not been concluded for a patent, the Office may grant a compulsory license:

a) If the patentee has not worked the patented invention at all, or has not worked it sufficiently, and does not offer acceptable reasons for his inaction; such a compulsory license cannot be granted within four years after the filing of the patent application or within three years after the granting of the patent, whichever time limit expires later; or

b) For reasons of violating an important public interest.

2. The granting of a compulsory license does not affect the patentee's right to royalties.

## Section 21

### Patent's Term

The term of a patent is 20 years from the filing of the patent application.

## Section 22

### Patent's Cessation

The patent ceases:

a) When its term expires;

b) When it lapses due to the patentee's failure to pay within the specified time limit the required fees<sup>4</sup> for the patent's renewal; and

c) When the patentee abandons the patent; the patent ceases the day the Office receives the patentee's letter of abandonment.

## Section 23

### Patent's Annulment

1. The Office annuls the patent upon subsequently establishing that the conditions for patentability specified by statute were not met.

2. If the reasons for annulment apply to only a part of a patent, it is annulled only partially.

3. Annulment of a patent is retroactive to the date it became effective.

4. An application for annulment may be filed even after the patent has ceased, if the applicant furnishes proof of a valid interest in having the patent declared null and void.

## Chapter II

### Procedure in Obtaining Patents

#### The Patent Application

## Section 24

1. The first step in obtaining a patent is the filing of a patent application with the Office.

2. The Office is the place where Czechoslovak citizens, as well as other persons and legal entities residing or established in the Czech and Slovak Federal Republic, may file convention applications.

3. When filing a patent application pursuant to Paragraphs 1 and 2, the applicant must pay a filing fee required by special regulations;<sup>4</sup> in the case of a convention application pursuant to Paragraph 2, the applicant must also pay the filing fees required by the international convention; the Office publishes the amounts of these fees in its journal.

## Section 25

1. The patent application must name the original inventor.

2. At the original inventor's request, the Office may withhold his name when publishing the patent application and announcing the granting of the patent.

### Section 26

1. The patent application must relate to a single invention or to a group of cognate inventions constituting a single conception of the inventor's.
2. In the patent application the invention must be explained clearly and comprehensively, so that an expert is able to construct it. If the invention is a microorganism used in industry, it must have been deposited in a public repository of cultures by the priority date.
3. In case of doubt the Office may require the applicant to present the subject matter of the invention or to demonstrate its usefulness in some other suitable way. If the applicant fails to comply, the Office assumes that the subject matter in the application is not useful.

### Section 27

1. By filing the patent application, the applicant gains a right of priority.
2. The applicant must claim already in the application his right of priority under the international convention;<sup>3</sup> within the time limit set by the Office, the applicant must present proof of his right of priority under the international convention, otherwise that right will be disregarded.

### Section 28

1. When proceedings have been instituted before the appropriate organ in a dispute over the right to a patent, the Office suspends prosecution of the patent application.
2. With the exception of the time limit under Section 31, Paragraph 1, the time limits specified in the present law do not run during the suspension.
3. The right of priority is preserved if the rightful applicant requests continuation of the patent application's prosecution within three months after the date on which the decision regarding the right to a patent became final. The legal acts performed in prosecution of the application before the suspension remain valid also during the continuation of the patent application's prosecution.

### Section 29

1. The Office assigns the patent application, or the granted patent, to the person whom the court has declared the original inventor.
2. The Office changes the name of the applicant or patentee if the appropriate organ in a dispute over the right to a patent has established that another person is entitled to the said right.

### Patent Application's Preliminary Examination

#### Section 30

1. The Office conducts a preliminary examination of the patent application to determine:
  - a) Whether it contains a subject matter that obviously is in conflict with the provisions of the present law's Section 3, Paragraph 1, or its Section 26, Paragraph 2;
  - b) Whether it contains a subject matter that falls under Section 3, Paragraph 2, or Section 4;
  - c) Whether it has deficiencies which would bar its publication; and
  - d) Whether the applicant has paid the required filing fees.<sup>4</sup>

2. If the patent application contains a subject matter that obviously is in conflict with the provisions of Section 3, Paragraph 1, or Section 26, Paragraph 2, or a subject matter that falls under the provisions of Section 3, Paragraph 2, or Section 4, the Office rejects the application. Before rejection, the applicant must be allowed to respond regarding the grounds for rejection.

3. If the patent application contains a subject matter whose deficiencies would bar the application's publication, or if the applicant has failed to pay the required filing fees,<sup>4</sup> the Office calls on him to respond to these facts within a specified time limit and to remedy the listed deficiencies.

4. If the applicant fails to remedy the patent application's deficiencies within the specified time limit or fails to pay the required filing fees,<sup>4</sup> the Office abates prosecution of the patent application. The applicant must be warned of this consequence when the time limit is set.

#### Section 31

1. The Office publishes the patent application 18 months after the priority date and announces the application's publication in its journal.

2. The Office may publish the patent application before the time limit specified in Paragraph 1 if the applicant so requests within 12 months at most after the priority date, and if he has paid the final fee required by special regulations.<sup>4</sup> The Office will publish the patent application before the expiration of the time limit specified in Paragraph 1 if a patent for the invention has already been granted. Without the applicant's consent, however, the Office will not publish the patent application before 12 months have elapsed from the priority date.

3. Together with the patent application, the Office may publish also the report on the examination of the prior art (patent search) pertaining to the invention claimed in the application.

### Section 32

1. After the patent application's publication, anyone can file a notice of opposition with the Office regarding the patentability of the application's subject matter. The Office takes the notices of opposition into consideration in the course of the patent application's complete examination.
2. The persons who have filed notices of opposition pursuant to Paragraph 1 do not become parties to the prosecution of the patent application. But the applicant must be informed of the notices.

### Patent Application's Complete Examination

### Section 33

1. The Office conducts a complete examination of the patent application, in the course of which it determines whether the application meets the conditions for patentability that the present law specifies.
2. The Office conducts the complete examination of the patent application on the applicant's or another person's petition, and it may conduct the complete examination also ex officio.
3. The petition for a complete examination must be filed not later than 36 months after the filing of the patent application and cannot be revoked. The examination fee required by special regulations<sup>4</sup> must be paid when filing the petition.
4. Once the request has been filed, the Office begins the complete examination without delay.
5. If a request to conduct a complete examination of the patent application has not been filed properly within the time limit specified in Paragraph 3, or if within the same time limit the Office has not started a complete examination of the patent application ex officio, the Office abates prosecution of the patent application.

### Section 34

1. The Office rejects the patent application if the specified conditions for patentability have not been met. Before the patent application's rejection, the applicant must be allowed to respond regarding the grounds on which the rejection is to be based.
2. If the applicant does not remedy within the specified time limit the application's deficiencies that would bar the granting of a patent, the Office abates prosecution of the patent application. The applicant must be warned of this consequence when the time limit is set.
3. If the patent application's subject matter meets the specified conditions for patentability and the applicant has paid the final fee required by special regulations,<sup>4</sup> the Office grants the applicant the patent and he becomes the patentee. The patent that the Office issues the patentee names the original inventor and includes the

invention's description and the patent claims. The Office announces the granting of the patent in its journal.

### Section 35

Only one patent may be granted when there are several patent applications with the same subject matter.

## PART TWO

## INDUSTRIAL DESIGNS

### Chapter I

### Industrial Design Defined

### Section 36

1. For the purpose of the present law, an industrial design is a manufactured article's external appearance that is new, and useful in industry.
2. The following are not industrial designs in the sense of Paragraph 1:
  - a) Engineering and structural designs;
  - b) The transfer of a known manufactured article's external appearance to another kind of manufactured article, or an external appearance created by enlarging or reducing a known manufactured article's external appearance;
  - c) The substitution of a material for a manufactured article's external appearance;
  - d) A building's architectural design;
  - e) A manufactured article's external appearance that can be distinguished only under close scrutiny; and
  - f) Color, unless used in conjunction with a shape, an outline or a drawing.

### Section 37

A manufactured article's external appearance is two- or three-dimensional and consists particularly in the article's shape, outline, drawing or arrangement of colors, or in a combination of these characteristics.

### Section 38

### Novelty

The industrial design is new if it was not known in the Czech and Slovak Federal Republic or abroad from publicly available sources before the date as of which the applicant for the industrial design's registration has a right of priority (Sections 48 and 49); in particular, if it was not pictured or described in publications, publicly used, displayed, presented or showed.

**Section 39****Industrial Usefulness**

The industrial design is useful in industry if articles can be manufactured repeatedly according to the design.

**Chapter II****Industrial Design's Registration****Section 40**

1. The Office registers industrial designs in the register of industrial designs (Section 69).

2. The Office will not register industrial designs that conflict with the public interest, especially with the principles of humaneness and morality.

**Section 41**

The Office will not register an industrial design if the subject matter of the application for its registration is the same as that of another application filed in the Czech and Slovak Federal Republic with an earlier priority date.

**Application for Registration****Section 42**

The first step in registering an industrial design is the filing of an application for registration with the Office.

**Section 43**

1. The industrial design's originator, or his heir or assignee, (hereinafter: the Applicant) has the right to file an application for registration. When filing the application for registration, the Applicant must pay a fee required by special regulations.<sup>4</sup>

2. The industrial design's originator is the person who produced the design by his own creative effort.

3. Co-originators have rights in the industrial design commensurately with their participation in producing it.

**Company-Owned Industrial Design****Section 44**

1. When the industrial design's originator produced the design as an employee in the course of his employment, his right to apply for registration passes to the employer in the absence of agreement to the contrary. But this does not affect the originator's right to a certificate of authorship.

2. The originator who has produced an industrial design in the course of his employment is obliged to notify his employer of this fact without delay, and to hand over to him all the data necessary to evaluate the industrial design.

3. The industrial design's originator can apply for registration if the employer fails to file an application for registration within three months following notification that the industrial design has been produced. Neither the employer nor the originator may disclose the industrial design to a third party during that period.

4. The originator who produced an industrial design in the course of his employment has a right to a fair bonus from his employer. The amount of the bonus is determined on the basis of the revenue potential of the industrial design's use or other application, but with due consideration for the employer's material contribution toward producing the industrial design and for the scope of the originator's duties as an employee. The originator is entitled to an additional settlement if the bonus already paid him becomes obviously incommensurate with the revenue from the industrial design's subsequent use or other application.

**Section 45**

Termination of the originator's employment with the employer does not affect the rights and obligations stemming from the provisions of Section 44.

**Section 46**

The application for registering an industrial design must name the design's originator.

**Section 47**

An application for registration may contain only a single industrial design of a manufactured article or the industrial designs of several manufactured articles of the same kind, similar to one another or intended to be used together (collective application for registration).

**Right of Priority****Section 48**

1. By filing the application for registering an industrial design, the Applicant gains a right of priority.

2. The Applicant must claim already in the application for registration his right of priority under the international convention;<sup>3</sup> within three months after filing, the Applicant must present proof of his right of priority under the international convention, otherwise that right will be disregarded.

**Section 49**

In the case of articles exhibited at exhibitions held on the territory of the Czech and Slovak Federal Republic, the Office may recognize the right of priority as of the date on which such an article was placed on display, provided that an application for the registration of the article as an industrial design is filed within three months after the closing of the exhibition.

## **Procedure in Registering an Industrial Design**

### **Section 50**

When proceedings are instituted before the appropriate organ in a dispute over the right to apply for the registration of an industrial design, the Office continues prosecution of the application for registration, but it will announce its own decision regarding registration only after the appropriate organ's decision will have become final.

### **Section 51**

1. The Office examines both the application for registration and the industrial design.

2. If the application for registration does not meet the specified conditions, the Office calls upon the Applicant to remedy the deficiencies. If the Applicant fails to comply within the specified time limit, the Office abates prosecution of the application for registration. The Applicant must be warned of this consequence when the time limit is set.

3. The Office may require the Applicant to present the subject matter of the application for the industrial design's registration so as to demonstrate its usefulness in industrial production. If the Applicant fails to comply, the Office assumes that the subject matter in the application is not useful in industrial production.

### **Section 52**

1. If the subject matter of the application for an industrial design's registration meets the specified conditions for registration, the Office registers the design in the register of industrial designs, and the Applicant becomes the registrant. The certificate of registration that the Office issues the registrant names the industrial design's originator.

2. The Office announces in its journal the industrial design's registration. At the registrant's request, the Office may delay announcing the industrial design's registration. When submitting such a request, the registrant must pay a fee required by special regulations.<sup>4</sup>

3. If the specified conditions for registration have not been met, the Office rejects the application for the industrial design's registration. Before rejecting the application, the Applicant must be allowed to respond regarding the grounds for rejection.

### **Section 53**

1. The Office assigns the certificate of registration to the person whom the court has declared the industrial design's originator.

2. The Office changes the name of the registrant in the certificate of registration if the appropriate organ in a dispute over the right to apply for the industrial design's registration has established that another person is entitled to the said right.

### **Section 54**

1. An industrial design's registration remains in force for five years after the date of filing the application for registration.

2. The Office will extend the term of the industrial design's registration twice at most, each time for an addition term of five years.

3. The registrant may apply for an extension of the industrial design's registration in the last year of the registration's current term at the earliest.

## **Chapter III**

### **Registration's Effect**

#### **Section 55**

The registrant has exclusive right to use the industrial design, to permit its use by others, and to assign the industrial design to others.

#### **Section 56**

An industrial design is used by a person who in the course of his industrial activity manufactures an article according to the design, or who imports or markets such an article.

#### **Section 57**

1. Permission (a license) to use an industrial design protected by a certificate of registration is granted in a licensing agreement.

2. The licensing agreement becomes binding on third parties when it is recorded in the register of industrial designs.

#### **Section 58**

An industrial design is assigned by written contract that becomes binding on third parties when it has been recorded in the register of industrial designs.

#### **Section 59**

### **Coregistrants**

1. When two or more persons have rights in the same industrial design (hereinafter: Coregistrants), the general rules of tenancy in common<sup>2</sup> govern their mutual relations.

2. In the absence of agreement to the contrary, each coregistrant has a right to use the industrial design.

3. In the absence of agreement to the contrary, a valid licensing agreement requires the consent of all Coregistrants; any one of the Coregistrants can independently file suit for infringement of the industrial design.

4. Assignment of the industrial design requires the consent of all Coregistrants. Without the consent of all the other Coregistrants, a coregistrant may assign his

share of the industrial design only to another coregistrant; a coregistrant may assign his share to a third party only if none of the other Coregistrants has accepted within one month his written offer to assign his share.

#### Section 60

##### Limitation of Registration's Effect

1. Registration of an industrial design provides no protection against a person (hereinafter: the prior user) who used, or undertook demonstrable measures to use, the industrial design before the priority date and independently of the industrial design's originator or of the registrant.
2. The prior user can demand recognition of his right by the registrant.

#### Section 61

##### Cessation of Rights in Industrial Designs

Rights in an industrial design cease:

- a) When the term of the industrial design's registration expires; or
- b) When the registrant abandons the industrial design; in this case the rights in the industrial design cease the day the Office receives the registrant's letter of abandonment.

#### Section 62

##### Registration's Cancellation

1. The Office cancels the registration of an industrial design upon subsequently establishing that the conditions for registration specified by statute were not met.
2. The Office cancels the registration either ex officio or on application.
3. Cancellation of the registration is retroactive to the date it became effective.
4. An application to cancel the registration may be filed even after the expiration of the registration's term, if the Applicant furnishes proof of a valid interest in the registration's cancellation.

### PART THREE

#### COMMON PROCEDURAL PROVISIONS

#### Section 63

##### Administrative Procedure

1. The general rules of administrative procedure apply to proceedings before the Office, with the departures specified in the [present] law and with the exception of the provisions governing abatement of proceedings, statements made on affirmation, the time limits for decisions, and measures against inaction.<sup>5</sup>

2. The Office collects fees<sup>4</sup> for the legal acts associated with proceedings under the present law. When proceedings are instituted in accordance with the provisions of Sections 23 or 62, or Section 68, Paragraphs 1 and 2, the petitioner or Applicant is required to furnish a deposit as security for the costs of the proceedings. The deposit will be refunded if in the course of the proceedings it is established that the institution of proceedings was justified.

#### Section 64

##### Abatement of Proceedings

1. If a party to the proceedings fails to comply with the Office's requirement within the specified time limit, the Office abates the proceedings.
2. The Office may abate the proceeding on the motion of a party to the proceedings. The motion is irrevocable.

#### Section 65

##### Excusable Delay

1. The Office will excuse the delay of a party to the proceedings who missed a time limit for good and sufficient cause, if he so requests within two months after the cessation of the hindrance, performs the delayed legal act during that period, and pays the fee required by special regulations.<sup>4</sup>
2. The delay is not excusable when a year has elapsed since the date on which the legal act should have been performed, when claiming or proving the right of priority, when requesting a complete examination of a patent application, or when requesting continuation of the proceedings pursuant to Section 28, Paragraph 3.
3. The rights that third parties acquire in the interval between the expiration of the missed time limit and the excusing of the delay are not affected.

#### Section 66

##### Access to Files

The Office may allow third parties access to the files only if they present proof of their valid interest. Before the patent application's publication or the announcement of the industrial design's registration, however, it is permissible for the Office to disclose to third parties only the names of the original inventor or the industrial design's originator, of the Applicant for the patent or for the industrial design's registration, also information about the right of priority, and the designation and file number of the application.

#### Section 67

##### Determination Proceedings

1. On the application of any person who presents proof of his valid interest, the Office determines whether the subject matter described in the application falls within



the scope of a certain patent's protection, or whether the manufactured article's external appearance pictured or described in the application falls within the scope of a certain registered industrial design.

2. The Office's determination is binding on the courts and other state agencies, and they may not make even interlocutory decisions in such questions.

#### Section 68

##### Legal Remedies

1. Against the decisions of the Office, other than its decision on excusing a delay, an objection may be filed within one month after the decision's date.

2. The Office's chairman decides the objection, on the proposal of the professional commission he establishes.

3. In proceedings pursuant to Sections 20, 23, 62 and 67, judicial review of the decision on the objection is available.<sup>6</sup>

#### Sections 69

##### Registers, Office's Journal

1. The Office maintains the patent register and the register of industrial designs, in which it records material information regarding applications for patents and for the registration of industrial designs, respectively, the prosecution of the applications, and the granted patents and registered industrial designs.

2. The Office issues its own journal, in which it publishes especially facts about the patent applications that have been made public, about the granted patents and registered industrial designs, also other information about the patents and industrial designs, as well as official announcement and decisions of a material nature.

#### Section 70

##### Representation

1. In the prosecution of patent applications and applications for the registration of industrial designs, persons and legal entities not residing or not established on the territory of the Czech and Slovak Federal Republic must be represented either by an attorney pursuant to special regulations,<sup>7</sup> or by a patent attorney who has been licensed by the Office.

2. The obligation in Paragraph 1 applies also when the persons or legal entities specified in Section 24, Paragraph 2, file convention applications.

#### Section 71

##### Secret Inventions and Industrial Designs

Except for the provisions regarding publication, the present law's provisions apply also to procedure in cases involving patents and industrial design that are kept secret in accordance with special regulations.<sup>8</sup>

### PART FOUR

## INNOVATION PROPOSALS

#### Section 72

1. The technical, production and operating improvements, and the solutions to problems of industrial safety, industrial health, and of the living environment over which improvements and solutions the innovator has a right of disposition are considered innovation proposals.

2. Rights in innovation proposals do not arise if they are barred by patent rights or rights in registered industrial designs.

#### Section 73

1. The innovator must offer his innovation proposal to his employer if the innovation proposal concerns the employer's line of work or activity.

2. The innovator is free to dispose of his innovation proposal if within two months after the date of the offer the employer does not conclude with him a contract for the offered innovation proposal's acceptance and for payment of the innovator's bonus (Section 74).

#### Section 74

The right to use the innovation proposal arises with the signing of the contract for the offered innovation proposal's acceptance and for payment of the innovator's bonus.

### PART FIVE

## COMMON, TRANSITIONAL, FINAL PROVISIONS

### Common Provisions

#### Section 75

##### Infringement of Rights

1. When rights protected by the present law are infringed, the person whose right has been infringed may seek above all an injunction against future infringement, and also elimination of the consequences of the infringement. If the infringement damaged the injured party, he is awarded compensatory damages for both his actual loss and his lost profits. If the infringement caused harm other than pecuniary loss, the injured party is entitled to redress that may include also [presumed] damages.

2. Disputes over inventions, industrial designs and innovation proposals are heard and decided by the courts, or perhaps by commercial arbitration boards, except in the cases that the present law reserves for the Office.

#### Section 76

##### Foreign Relations

1. In case of reciprocity, persons and legal entities not residing or established on the territory of the Czech and

Slovak Federal Republic have the same rights and obligations as Czechoslovak persons and legal entities.

2. The present law does not affect the international agreements that are binding on the Czech and Slovak Federal Republic.

#### Transitional Provisions

##### Section 77

If still pending when the present law becomes effective, the prosecution of applications for the registration of discoveries will be completed according to the regulations that have been in force up to now.

##### Section 78

1. The prosecution of patent applications still pending when the present law becomes effective will continue according to the present law, with the understanding that the Office will be conducting complete examinations on its own initiative.

2. In the case of an invention devised pursuant to Section 28, Item a), of Law No. 84/1972 Sb., the employer is entitled to the patent if he applies for it within three months after the date on which the present law becomes effective. The original inventor is entitled to a bonus from the employer in accordance with Section 9, Paragraph 4, of the present law. If the employer fails to apply for a patent within the specified period, the rule applies that the right to the patent reverts to the original inventor.

3. The rights of third parties are not affected if use of the subject matter of the patent applications specified in Paragraphs 1 and 2 had begun before the present law became effective, and in accordance with the regulations that have been in force up to now. The original inventor's right to a bonus for such use of the patent application's subject matter is not affected by the fact that he has applied for a certificate of invention according to the regulations that have been in force up to now.

##### Section 79

On an application for recognition of a certificate of invention, if filed on the basis of an international agreement<sup>9</sup> before the present law went into effect, the Office will grant a patent, provided that, within six months after the present law becomes effective, the Applicant brings the application for recognition of a certificate of invention in line with the present law's conditions for an application for recognition of a patent. If the Applicant fails to do so, the Office will abate prosecution of the application.

##### Section 80

1. The prosecution of applications for the registration of industrial designs, if still pending when the present law becomes effective, will continue in accordance with the present law.

2. The employer becomes the Applicant for the registration of an industrial design produced under the conditions specified in Section 82 of Law No. 84/1972 Sb., if he so petitions within three months after the present law becomes effective. The industrial design's originator is entitled to a bonus from the employer, in accordance with Section 44, Paragraph 4, of the present law. If the employer fails to petition within the specified time limit that his name be entered as the Applicant, the rule applies that the originator is the Applicant for the industrial design's registration.

3. If gained before the present law became effective and in accordance with the regulations that have been in force up to now, the rights of third parties to use the subject matters of the applications for the registration of industrial designs, specified in Paragraphs 1 and 2, remain intact. The originator's right to a bonus for such use is likewise not affected.

##### Section 81

1. A certificate of invention granted pursuant to Law No. 84/1972 Sb. is valid for 15 years from the filing of the application; its validity may not cease earlier than one year after the present law becomes effective. After the first year following the date when the present law becomes effective, the fees required by special regulations<sup>4</sup> will have to be paid to keep the certificate of invention in force.

2. A certificate of registration granted for an industrial design pursuant to Law No. 84/1972 Sb. is valid for a period of five years from the filing of the application; upon request, the Office may extend the validity of the certificate of registration for another five years. However, the validity of the certificate may not cease earlier than one year after the present law becomes effective. The fees required by special regulations<sup>4</sup> must be paid when filing the application for extension.

3. The organization which—on the basis of the regulations that have been in force up to now—is entitled or has been authorized to manage an invention or industrial design, has the same rights as the patentee who has offered to license his invention, or as the registrant of the industrial design.

4. If an invention was devised under conditions different from what Section 28, Item a), of Law No. 84/1972 Sb. specifies, and is protected by a certificate of invention granted in accordance with the regulations that have been in force up to now, but has not been utilized by the organization entitled or authorized to manage the said invention, then the original inventor has the right to file with the Office, at any time while the certificate of invention remains in force, an application for converting the certificate of invention into a patent. Conversion of the certificate of invention into a patent is subject to a fee. The implementing regulations will give the details of this provision.

5. If an invention protected by a certificate of invention was not devised under the conditions specified in Section 28, Item a), of Law No. 84/1972 Sb., or if an industrial design protected by a certificate of registration was not produced under the conditions specified in Section 82 of the aforementioned law, then the original inventor and the industrial design's originator, respectively, have the right to use the invention or the industrial design in their business that they conduct in accordance with special regulations.<sup>10</sup>

6. If the organization which has the rights specified in Paragraph 3 fails to pay within six months after the expiration of the time limit in Paragraph 1 the fees that special regulations<sup>4</sup> require for maintaining the certificate of invention in force, or if the said organization fails to petition within the same period the recording of its rights in the register of industrial designs, then the Applicant gains the rights of the patentee and registrant, respectively, provided he performs these acts within a further period of six months. Delay of these periods is not excusable.

#### Section 82

1. On the petition of the patentee, the subject matter of whose patent obtained abroad falls under the provisions of Section 28, Items b) and c), of Law No. 84/1972 Sb., the Office may recognize the right of priority under the convention<sup>3</sup> for a patent application filed in the Czech and Slovak Federal Republic after expiration of the period specified in the convention.

2. The petition pursuant to Paragraph 1, together with the patent application and the patent granted abroad, must be filed within 12 months after the present law becomes effective.

3. The Office will not grant a patent on an application filed in accordance with Paragraph 2:

a) If the Applicant does not present documentary evidence of permission to sell or manufacture the patent's subject matter in any country;

b) If the Applicant does not present documentary evidence of permission to sell or manufacture the patent's subject matter in the Czech and Slovak Federal Republic, the permission having been granted by the appropriate Czechoslovak agency on an application filed within six months after the granting of such permission in any other country; or

c) If the subject matter of the patent granted abroad was on sale in the Czech and Slovak Federal Republic before the filing of an application pursuant to Paragraphs 1 and 2.

4. After filing an application pursuant to Paragraphs 1 and 2, the patentee who has been granted a patent abroad must submit the documentary evidence specified in Paragraph 3, Items a) and b), within three months after obtaining the evidence, but before the patent's expiration in accordance with the provisions of Paragraph 5.

5. The patent granted on an application filed pursuant to Paragraph 2 is valid for 16 years from the recognized priority date.

6. Delay of the periods specified in Paragraph 2, in Paragraph 3, Items a) and b), and in Paragraph 4 is not excusable.

#### Section 83

The regulations that have been in force up to now will govern relations arising from patents of invention and design patents granted before the present law becomes effective.

#### Section 84

If begun or licensed before the present law becomes effective, the use of a patent protected by a certificate of invention, or of an industrial design protected by a certificate conforming to the regulations which have been in force up to now, does not constitute patent infringement. This does not affect the original inventor's or the originator's right to a bonus for such use.

#### Section 85

1. The prosecution of [certificate of] innovation applications still pending when the present law becomes effective will be completed in accordance with the present law, with the understanding that the period specified in Section 73, Paragraph 2, shall start on the date when the present law becomes effective.

2. The regulations that have been in force up to now shall govern relations arising from the innovation proposals allowed before the present law becomes effective, with the understanding that the certificate of innovation shall be effective for three years after the date on which the present law becomes effective.

#### Section 86

1. If they have arisen before the present law becomes effective, bonus claims for discoveries; bonus claims for the use of inventions, industrial designs, or innovation proposals; claims for recovering the reasonable costs of preparing drawings, models or prototypes; bonus claims for participating with initiative in the elaboration, testing or introduction of discoveries, inventions, industrial designs, or innovation proposals; and bonus claims for calling attention to the feasibility of using specific inventions or innovation proposals will be settled on the basis of the regulations that have been in force up to now.

2. If an invention is protected by a certificate of invention and its patent is held by an organization in accordance with the provisions of Section 81, Paragraph 3, for the patent's use after the present law becomes effective

the said organization will have to pay the original inventor a bonus as specified in Section 9, Paragraph 4, of the present law. If an industrial design is protected by a certificate [of authorship] and the registrant is an organization in accordance with the provisions of Section 81, Paragraph 3, for the industrial design's use after the present law becomes effective the said organization will have to pay the industrial design's originator a bonus as specified in Section 44, Paragraph 4.

3. If they arise after the present law becomes effective, bonus claims for the use of innovation proposals for which certificates of innovation have been granted will be settled in accordance with the regulations that have been in force up to now.

#### Section 87

Research tasks announced before the present law becomes effective will be processed and disposed of in accordance with the regulations that have been in force up to now.

#### Enabling, Rescinding, and Final Provisions

#### Section 88

1. The Office shall regulate by decree the details of procedure in cases involving inventions and industrial designs.

2. Certificates [of authorship] are granted for new methods of preventing, diagnosing and treating human diseases. In agreement with the Office, the Czech Republic's Ministry of Health and the Slovak Republic's Ministry of Health will regulate the details by decree.

3. Certificates [of authorship] are granted for new methods of preventing, diagnosing and treating animal diseases, and of controlling plant parasites and diseases. In agreement with the Office, the Czech Republic's Ministry of Agriculture and the Slovak Republic's Ministry of Agriculture and Food will regulate the details by decree.

#### Section 89

The following are hereby rescinded:

1. Law No. 84/1972 Sb. on Discoveries, Inventions, Innovations Proposals, and Industrial Designs;
2. Decree No. 104/1972 Sb. on Procedure in Cases Involving Discoveries, Inventions, and Industrial Designs;
3. Decree No. 105/1972 Sb. on Innovation Proposals;
4. Decree No. 107/1972 Sb. on Foreign Relations in Matters Relating to Inventions, and Industrial Designs;
5. Decree No. 93/1972 Sb. on the Arbitration of Disputes Over Bonuses Paid in Conjunction With Inventions, Innovation Proposals, and Industrial Designs;

6. Decree No. 27/1986 Sb. on Bonuses for Discoveries, Inventions, Innovation Proposals, and Industrial Designs;

7. Decree No. 28/1986 Sb. on the Administration of Inventions, Innovation Proposals, and Industrial Designs, and of Their Planned Utilization in the National Economy;

8. Decree No. 29/1986 Sb. on the Planning of Research Topics; and

9. Decree No. 68/1974 Establishing Departures From the Provisions of Law No. 84/1972 Sb. on Discoveries, Inventions, Innovation Proposals, and Industrial Designs.

#### Section 90

The present law will become effective on 1 January 1991.

#### Footnotes

1. Convention on International Exhibitions, signed in Paris on 22 November 1928 (SBIRKA ZAKONU A NARIZENI STATU CESHOSLOVENSKEHO, No. 46/1932).

2. Law No. 40/1964 Sb. (the Civil Code), as modified and amended by subsequent regulations; and Law No. 109/1964 Sb. (the Commercial Code), as modified and amended by subsequent regulations.

3. Decree of the Czech Socialist Republic's Minister of Foreign Affairs No. 64/1975 Sb. on the International Convention for the Protection of Industrial Property, signed in Paris on 20 March 1883, and revised in Brussels on 14 December 1900, in Washington on 2 June 1911, in The Hague on 6 November 1925, in London on 2 June 1934, in Lisbon on 31 October 1958, and in Stockholm on 14 July 1967.

4. Law No. 105/1951 Sb. on Administrative Fees, as modified and amended by Law Decree of the National Assembly's Presidium No. 138/1960 Sb.; Decree of the Federal Ministry of Finance, the Czech Republic's Ministry of Finance, Prices and Wages and the Slovak Ministry of Finance, Prices and Wages No....[number omitted, as published] Sb. on Administrative Fees.

5. Sections 29, 39, 49 and 50 of Law No. 71/1967 Sb. on Administrative Procedure (the Code of Administrative Procedure).

6. Section 244 of the Code of Administrative Procedure.

7. Law of the Czech National Council No. 128/1990 Sb. on Attorneys; Law of the Slovak National Council No. 132/1990 Sb. on Attorneys; and Law of the Czech National Council No. 209/1990 Sb. on Commercial Arbitration-Board Lawyers and the Legal Services They Provide.

8. Law No. 102/1971 Sb. on Safeguarding State Secrets, as modified and amended by Law No. 383/1990 Sb.

9. Decree of the Czech Socialist Republic's Minister of Foreign Affairs No. 133/1978 Sb. Regarding the International Agreement on the Mutual Recognition of Certificates of Invention and Other Documents Protecting Inventions.

10. Law No. 109/1964 Sb. (the Commercial Code) as modified and amended by subsequent regulations; and Law No. 105/1990 Sb. on Private Enterprise.

**Amendment to Law on Civilian Character of Interior Ministry**

91CH0269C Budapest MAGYAR KOZLONY  
in Hungarian No 115, 20 Nov 90 pp 2283-2285

[“Text” of Law No.82 of 1990 amending Decree With the Force of Law No.10 of 1971 concerning the service duty relationship of the professional staff of the Armed Forces and of armed bodies; adopted by the National Assembly at its session on 12 November 1990]

[Text]

**Reclassification of Service Duty Assignment**

Paragraph 1. Decree with the Force of Law No. 10 of 1971 concerning the service duty relationship of the professional staff of the Armed Forces and armed bodies, as amended several times already (hereinafter: Decree) shall be amended by adding the following subtitle and Paragraph 23/A:

“Paragraph 23/A Section (1) The minister of the interior may reclassify service duty assignments to civilian positions in the Ministry of the Interior and its institutions.

“Paragraph 23/A Section (2) Except as provided for in Sections (3) and (4) the reclassification provided for in Section (1) shall not affect the service duty relationship of the Ministry’s professional staff.

“Paragraph 23/A Section (3) A person assigned to a civilian position shall not use his rank and shall not wear his uniform, and further, shall not have on him his service weapon while performing his function.

“Paragraph 23/A Section (4) Labor law provisions applicable to state administrative workers shall apply to the work performance, disciplinary, and financial responsibility of persons employed in civilian positions.

“Paragraph 23/A Section (5) If a member of the professional staff does not concur with his assignment to a reclassified position as per Section (1), he shall be transferred pursuant to Paragraph 19 of the Decree, or his service duty relationship shall be terminated upon his request.”

**Competitive System**

Paragraph 2. The Decree shall be amended by adding the following subtitle and Paragraphs 23/B-23/D:

“Paragraph 23/B The positions of chief of police and superintendent of police, and in case of vacancy additional service duty assignments designated by the minister of the interior shall be filled on the basis of public competition. Participation in the judging of applications by the affected autonomous governmental body must be ensured. Service duty assignments to be made on a competitive basis shall be made by appointments to five year terms. The minister of the interior shall promulgate a decree providing for the announcement and judging of such competition.

“Paragraph 23/C Section (1) Prior to the appointment of a chief of police the views of the general assembly of the county, the city having the authority of counties, or the capital shall be solicited.

“Paragraph 23/C Section (2) Concurrence by the autonomous governmental bodies of settlements is required to the appointment of superintendents of police. The authority to concur shall be exercised by the representative body, except as provided for in Section (3).

“Paragraph 23/C Section (3) In the event that the jurisdiction of a police superintendency extends over the administrative jurisdiction of several settlements, the concurrence of a majority of the mayors of the settlements involved shall be required.

“Paragraph 23/C Section (4) The views and concurrence of autonomous governmental bodies shall be requested by the person exercising the appointment authority. The position taken by the autonomous governmental body shall be conveyed by the chairman of the county general assembly, the lord mayor, and the mayor respectively; in the event that the provisions of Section (3) prevail, by the mayor of the settlement in which the office of the chief of police is headquartered.

“Paragraph 23/C Section (5) Autonomous governmental bodies shall convey their position relative to the appointment, to the person exercising the appointment authority within 30 days from date of receipt of the request specified in Section (4). Failure to comply with this deadline shall be construed as the autonomous governmental body having concurred with the appointment.

“Paragraph 23/D Section (1) A person already appointed to serve as police chief or police superintendent may be transferred to a lower level position commensurate with his preparedness, in the event that he is not appointed as a result of the competition.

“Paragraph 23/D Section (2) Appointments for an indefinite term as described in Section (1) shall cease upon the appointment of the person to that position as a result of competition.”

Paragraph 3. This law takes effect on the day it is proclaimed.

[Signed] Arpad Goncz, president of the Republic;  
Gyorgy Szabad, president of the National Assembly

**LEGISLATIVE INTENT**

To the legislative proposal providing for amendments to Decree with the Force of Law No. 10 of 1971 concerning the service duty relationship of the professional staff of the Armed Forces and armed bodies.

**General Intent**

The transformation of the organizational system of the Ministry of the Interior, and as part of this, the provision of a civilian character to the Ministry of the Interior



organization constitutes a task which is part of the process of developing a state organization responsive to the requirements of a democratic constitutional state.

At the same time, the consistent realization of the change in political power, the democratization of the police, the relaxation of excessive centralization, and consideration for the interests of autonomous governance demand that service duty assignments regarding certain leadership and other positions within the police organization be filled on a competitive basis.

This proposal initiates the fulfillment of this dual need.

#### Section by Section Analysis

##### Concerning Paragraph 1

The service duty relationship of the professional staff of the Armed Forces and armed bodies evolves as a result of becoming part of the professional staff, and according to the legal provision in force, the rank and service duty assignment of the member of the professional staff must be determined simultaneously. Service duty assignment provides substance to the service duty relationship.

The proposal authorizes the minister of the interior to reclassify service duty assignments into civilian positions within the Ministry of the Interior and its institutions.

Providing a civilian character to the Ministry of the Interior and its institutions, however, must not result in infringements upon the vested rights of the professional staff. For this reason, the proposal provides that with certain exceptions, the reclassification of service duty assignments to civilian positions shall not affect the service duty relationship of the professional staff.

The exceptions provided for in the proposal are justified by differences between civilian positions and service duty assignments. In filling civilian positions it is unnecessary to use ranks, wear uniforms, and to provide service weapons, or to apply rules applicable to work performance, or rules by which persons may be held to account on the basis of disciplinary [considerations] or financial responsibility, which are tied to service duty assignments.

Pursuant to the legal provision in force, a member of the professional staff may be transferred to any position commensurate with his preparedness, in the interest of the service. The proposal makes reference to this legal provision when it provides that in the event a member of the professional staff does not accept his assignment to a reclassified position, he shall be transferred and assigned to an identical position.

At the same time the proposal provides an opportunity for members of the professional staff to request the termination of his service duty relationship in the event that he is unable to accept the transfer either. Pursuant to the legal provision in force, if a member of the professional staff requests termination of his service duty

relationship, such action creates only a possibility, and the acceptance of such request is not mandatory. In the interest of equal opportunity, the proposal deviates from this rule, and in special cases mandates termination of the service duty relationship.

##### Concerning Paragraph 2

In the interest of changing the system, and to satisfy the societal demand which urges changes in leading positions, and consistent with public service reform, it is necessary to fill the positions of chiefs of police and superintendents of police, and in case of vacancies, additional positions designated by the minister of the interior on the basis of a competitive system which has been successfully used in civilian life already. Considering the fact that the Decree with the Force of Law does not provide an opportunity for the announcement of a competitive examination in the practice of the Armed Forces and armed bodies, it appears necessary to provide for competitive examinations in the framework of a law. The provision contained in the proposal concerning service duty assignments which may be filled on the basis of competitive examinations and specifies a finite term of five years for appointments serves the purpose of placing the most fit persons in leadership positions and of enhancing the change.

Autonomous governmental bodies exercise broad authority relative to appointments to positions to be filled on a competitive basis. The proposal provides for the participation of autonomous governmental bodies in the judging process. With respect to chiefs of police, autonomous governmental bodies have a right to comment, and with respect to superintendents of police the concurrence of autonomous governmental bodies is required.

Pursuant to the legal provisions in force, members of the professional staff may be transferred to lower level positions only in cases specifically enumerated in the legal provision. Consistent with the democratization intended to be achieved with the competitive system, and consistent with the requirements [established by the principle of] equal opportunity, the proposal enables the transfer of persons to lower level positions, in the event that the person already appointed does not win on the basis of the competitive examination.

Appointments to positions which may be filled in the future on a competitive basis were made for indefinite terms. For this reason, the proposal provides that these appointments shall terminate on the day when the person who won the competition is appointed.

The proposal does not provide for the order of announcing and judging competitive examinations. Considering the nature of, and the possibility of changes in judging, the proposal authorizes the minister of the interior to provide for these issues in the form of a decree.

**Decree on Trade Liberalization**

91CH0263A Budapest MAGYAR KOZLONY  
in Hungarian No 131, 23 Dec 90 pp 2554-2566

[Government Decree 112/1990.(XII.23.) on the Exports and Imports of Goods, Services, and Rights Representing Material Value, signed by Prime Minister Dr. Jozsef Antall]

[Text] By authority provided by Statute 1974/III., Paragraph 29, dealing with foreign trade, the government decrees the following:

**Paragraph 1**

The exporting and importing of goods, services, and rights representing material value (hereinafter: goods) in the areas set forth by statute 1974/III on foreign trade come under the ruling of this decree.

**Paragraph 2**

1. The following are authorized to export or import goods in accordance with the present decree:

- a) Legal person;
- b) Business association without corporate body;
- c) Trade group;
- d) Private entrepreneur;

(hereinafter: all of the above: firm).

2. It is not necessary to provide proof of private entrepreneurship for exporting or importing if:

a) A natural person wishes to market abroad his patent, registered at or patented by the National Patent Office;

b) Artists, industrial artists and photographers, i.e., creative communities formed by them, wish to market their own work abroad or procure from abroad products necessary for continuing their export activity;

c) An agricultural producer wishes to market his own produce abroad.

**Paragraph 3**

1. There is no need to obtain a license from the Ministry of International Economic Relations (hereinafter: Ministry) to export or import goods.

2. Licenses specified in other statutes must be obtained, i.e., other requirements must be satisfied, for exporting or importing goods.

**Paragraph 4**

1. In case

- a) It is warranted by national security.

b) It is required by an international agreement or decision recognized and adopted by the government of the Republic of Hungary.

c) A situation emerges in which the population's basic supplies are seriously jeopardized.

The minister of international economic relations (hereinafter: Minister) may, in accordance with a government authorization, require a license for exports (imports), may suspend (prohibit) imports or exports for a determined or undetermined period of time, or may impose other limitations.

2. The Minister is authorized to take the measures specified under section 1. in case a country introduces a statute or a practice which is contrary to the agreement made with the Republic of Hungary or is detrimental to the trade with the Republic of Hungary in a discriminatory manner and, in the case of countries that participate in the General Agreement on Tariffs and Trade (GATT), where the arbitration process was unsuccessful.

**Paragraph 5**

1. The importing or exporting of goods specified in Appendix 1 is subject to licensing by the Ministry.

2. The importing or exporting of goods specified in Appendix 2 is subject to special licensing issued to firms by the Ministry.

3. Regarding the goods specified in Appendix 2, firms that acquired the Ministry's license must sign a consignment contract with a domestic firm in accordance with the latter's commission assignment. They can refuse signing the contract only if they can prove either their inability to fulfill their contract obligations or the contract's interference with national economic interests.

**Paragraph 6**

Regarding countries where bilateral trade relations are not based on the system of institutions and resources of market economies, imports and exports may temporarily be subject to licensing. The countries where such licensing is required, as well as the regulations regarding processes will be determined in a statutory provision issued by the Minister.

**Paragraph 7**

1. The minister may determine a six-month quota (consumer goods quota) for imports of goods aimed directly at consumption. Announcements of individual quotas must be published in the MAGYAR KOZLONY and in the Ministry's official paper at least 30 days prior to their introduction.

2. When warranted, the Minister is authorized to determine a supplementary quota.

3. The Ministry may set the maximum value (value ceiling) of individual goods within the consumer goods quota.

4. The Ministry will determine the allocation of the consumer goods quota through a resolution.

**Paragraph 8**

From the quota set forth in Paragraph 7 section 1. and from the value ceilings set forth in Paragraph 7 section 3., the Ministry may determine the maximum value of goods a single individual firm may import.

**Paragraph 9**

If the quota is not used within 120 days from the decision, the Ministry will reapportion it among applicants. The date of the goods' customs clearance must be considered the date of use.

**Paragraph 10**

In case of individual goods to be exported that qualify for export subsidy, the Interportfolio Committee, designated by a separate statutory provision, may determine quotas of export subsidy. The list of goods included in the quota, the amount of subsidy, and the amount and the prescribed use of the quota must be published in the official paper of the Ministry and the Ministry of Agriculture.

**Paragraph 11**

1. In case the Government of the Republic of Hungary, or an organization authorized by it, has signed an international contract regarding trade regulations, those engaged in the trade of identical goods must cooperate in a way that will permit the observance of the regulations and requirements of the individual markets, the avoidance of conflict with the interests of domestic production and commerce, and the development of conditions for an effective marketing abroad. This decree must be applied as well in case a country (group of countries) determines the amount (value) or the minimum prices of goods to be imported.

2. In the interest of implementing the orders under 1., the Ministry, in issuing the licenses as set forth under Paragraph 5 section 1., will act in consideration of the standpoint of professional self-coordinating organizations of the given goods' distributors.

**Paragraph 12**

1. Signing a contract for importing or exporting goods, or issuing a license as set forth in Paragraph 5 section 1. and paragraph 6, will authorize a firm to purchase—in accordance with regulations governing foreign exchange—foreign means of payment necessary for fulfilling its contract obligations, and to carry out all actions necessary to fulfill its contract obligations.

2. A decision to prohibit imports or exports or to refuse the issuance of a license may be appealed. The appeal process must follow the regulations of state administrative processes, including the modifications as set forth in order 1/1982.(I.16.)KkM [Ministry of Foreign Trade].

**Paragraph 13**

1. Firms, natural persons, and creative communities set forth in Paragraph 2 will notify the Ministry in writing of the beginning of their activities falling under the order, providing the name and address of the firm (natural person), and the firm's tax number.

2. Notification as set forth under section 1. must not be repeated by those who were registered by the Ministry before 31 December 1990.

**Paragraph 14**

Separate statutory provisions regulate the process of market protection and antidumping.

**Paragraph 15**

1. This order becomes effective on the date of its announcement; its provisions are to be applied to exports and imports taking place after 1 January 1991. Order 3/1977.(VII.23.)KkM—modified by orders 1/1980.(IV.25.)KkM, 2/1987.(IV.3.)KkM, 12/1988.(XII.27.)KeM [Ministry of Commerce], 20/1989.(XII.19.)KeM, and 4/1990.(III.28.)KeM—on regulating the licensing of foreign trade of goods, services, and rights representing material value, and order 1/1987.(XII.29.)KeM—modified by orders 1/1989.(I.18.)KeM, 1/1990.(I.16.)KeM, and 2/1990.(VII.17.)NGKM [Ministry of International Economic Relations]—will cease to have effect on 1 January 1991.

2. The Minister will be authorized to issue statutory provisions, in agreement with other ministers concerned and organizations of interest representation:

a) To determine the regulations of the process of issuing export and import licenses;

b) To determine the list of countries as set forth in Paragraph 6;

c) To determine the guidelines for appropriating the consumer goods quota as set forth in Paragraphs 7 to 9 as well as the regulations of using the quotas.

3. At the public announcement of the consumer goods quota, the Ministry may determine a shorter time period for the first occurrence than set forth in Paragraph 7 section 1.

(Signed) Dr. Jozsef Antall, prime minister

## Appendix 1/a.

## List of Products Requiring Export License in 1991

KTJ [Commercial Product Register] number	Product
11-1	Coal
11-2	Crude oil
11-3	Natural gas
11-5	Enriched or compressed heating fuel
12	Ore mining products
13-15	Precious and semiprecious stones, industrial diamonds
13-31-000	39-percent raw phosphate
14-10-000	Electric power
16-0	Semifinished and complete buildings (industrial, agricultural, transportation, commercial, storage, management, educational, social, residential/hostel, water, other) and related activities (digits 6 and 7, 97)
16-50-097	Activity related to steel reinforced concrete building construction elements
16-84-097	Activity related to light-structure buildings
17-51	Brand name china
18-99-000	Scrap from the glass industry
21-12-000	Pellet ore
21-13-000	Shrinkage
21-14	Pig iron
21-15	Large-smelter iron alloy
21-16	Small-smelter iron alloy and deoxidizing materials
21-17	Iron alloy not for metallurgical use
21-2	Crude steel
21-3	Iron-based castings
21-4	Forged and pressed steel products
21-5	Hot-rolled steel semiproducts
21-6	Hot-rolled rod and rolled-section steel
21-7	Rolled steel sheets and wide bands
21-8	Hot-rolled steel pipes
21-9	Metallurgical scrap and byproducts
22-1	Drawn, scraped, and polished steel rods
22-2	Cold-drawn steel cables
22-3	Cold-rolled steel bands
22-4	Welded steel pipes
22-5	Cold-drawn steel pipes
22-6	Pipe products
22-7	Bent steel shapes
22-8	Coated and covered steel sheets
22-91	Stranded steel cables
22-92-100	Welding electrodes made of steel
22-93-000	Iron-based grist

List of Products Requiring Export License in 1991  
(Continued)

KTJ [Commercial Product Register] number	Product
23-1	Zinc products
Copper products	
23-2	
23-3	Nickel products
23-4	Lead products
23-5	Tin products
23-6	Other nonferrous metals
23-7	Rare and earth metals
23-9	Precious metals and their alloys
24-11	Alumina
24-21-2	Unalloyed aluminum blocks and billets
24-21-300	Unalloyed pure aluminum blocks
24-21-400	Rolled aluminum products
24-21-500	Pressed aluminum products
24-21-600	Drawn aluminum products
24-21-700	Forged aluminum products
24-21-900	Unalloyed aluminum scrap
of 24-22-100	Remelted alloyed aluminum blocks
24-22-2	Alloyed aluminum blocks and billets
24-22-300	Alloyed pure aluminum blocks
24-22-400	Alloyed rolled aluminum products
24-22-500	Alloyed pressed aluminum products
24-22-600	Alloyed drawn aluminum products
24-22-700	Alloyed forged aluminum products
24-22-900	Alloyed aluminum scrap
24-23-300	Cut aluminum cables
24-32-900	Alloyed magnesium scrap
25-1	Bridge structures
25-2	Building structures made of metal
25-3	Structural engineering metal structures
25-6	Industrial metal structures
25-90-000	Other metal structures
27-61-000	Building reinforcements
28-15	Forged nail products
28-16-000	Drive-in nails
28-21-00	Nails
of 29	Silverware, serving utensils, and pans made of precious metals
29-62-000	Metal office equipment
29-71-110	Coins, pins, made of precious metals

List of Products Requiring Export License in 1991  
(Continued)

KTJ [Commercial Product Register] number	Product
29-71-130	Money coins
29-80-000	Weapons
29-90-000	Ammunition and explosives
31-93-000	Springs
31-94-000	Axles
31-95-000	Bushings
31-99-000	Other general machine building elements
32-90-000	Artillery weapons, other special equipment
33-2	Equipment and accessories for drilling and operating crude oil, natural gas and water wells
33-71	Earthworking machinery
33-72-000	Polling equipment
33-73	Construction caulking machines
33-74-100	Concrete feeder
33-74-200	Cement mixers
33-74-300	Concrete steel processor
33-74-400	Lime slaking machines
41-54-210	Floating dredgers
41-6	Air conveyances
41-80-000	Special conveyances
41-90-000	Special air and water conveyances, ferries
44-90-000	Special telecommunication products
47-90-000	Special instruments
48-50-100	Program products
48-50-200	Automatic data processing documentation
48-50-300	Other software products
51-22-130	Phosgene
of 51-33-900	Phosphorus pentoxide chloride
51-35-100	Hydrogen fluoride
of 51-65-100	Sodium sulfide
of 51-66-100	Ammonia hydrogen fluoride, potassium fluoride, potassium hydrogen fluoride, sodium fluoride
of 51-66-200	Arsenic trichloride
of 51-67-100	Chlorine cyan, hydrogen cyanide, potassium cyanide, sodium cyanide
51-80-000	Radioactive fission materials, isotopes
of 51-94-000	Phosphorus trichloride, tione chloride, phosphorus pentachloride
of 51-95-000	Phosphorus pentasulfide
52-13-118	Saturated halons and freons

List of Products Requiring Export License in 1991  
(Continued)

KTJ [Commercial Product Register] number	Product
of 52-13-119	Chlorine ethanol
of 52-14-190	Diethyl etanolamine, di-isopropyl beta aminoethane thiole, di-isopropyl beta amoniethanol, di-isopropyl beta aminoethyl chloride, di-isopropylamine, dimethylamine, dimethylamine hydrochloride, triethanolamine
52-14-790	Trichloride nitromethane
52-14-800	Dimethyl methyl phosphonate, dimethyl hydrogen phosphite, methyl phosphonile dichloride, methyl phosphonile difluoride, thiodiglycol, trimethyl phosphite, diethyl ethyl phosphonate, diethyl methyl phosphonite, diethyl N, N dimethyl phosphor amidate, diethyl phosphite, dimethyl ethyl phosphonate, 0 ethyl 2 di-isopropyl amino ethyl, methyl phosphonite (QL), ethyl phosphinile dichloride, ethyl phosphonile difluorid, ethyl phosphonile dichloride, ethyl phosphonile difluorid, methyl phosphinile difluorid, triethyl phosphite
of 52-22-42	Phenol 1, propanone 2
of 52-25-190	Anthranilic acid
of 52-23-190	Phenol acetic acid
52-12-581	Acetic acid anhydride
of 52-12-340	Ethyl ether
of 52-35-900	Piperidine
of 52-23-190	Benzilic acid, methyl benzilate
of 52-35-900	3 hydroxide 1 methyl piperidine
of 52-36-900	Pinakolone, pinakolite alcohol, 3 quinuclidinol, 3 quinuclidinone
53-12	Alkaloids
53-90-100	Special pharmaceutical products
54-2	Cokes
55-11-400	Propane butane gas
55-13-011	Dearomatized low-octane gasoline for industrial processing
55-13-110	Regular gasoline
55-13-120	Premium gasoline
55-13-130	Super premium gasoline
55-13-180	Aircraft fuel
55-13-300	Gasoline for the chemical industry
55-13-400	Pyrobenzine
55-14-200	Jet engine fuel
55-15-000	Diesel fuel

**List of Products Requiring Export License in 1991  
(Continued)**

KTJ [Commercial Product Register] number	Product
55-22-000	Heating oil
56-13-000	Rubber regenerate
56-19-000	Rubber industry scrap
56-80-000	Special rubber products
57-00-000	Special plastic products
57-99-000	Plastic processing scrap
59-00-000	Other special chemical products
59-26	Industrial explosives, fireworks materials
59-80-000	Gunpowders, explosives, and pyrotechnic products
61-81-000	Sawing industry scrap
61-82-000	Sheet industry scrap
66-63-100	Stamps
69-31	Jewelry
69-32-000	Costume jewelry
69-33-100	Fancy articles made of precious metals
69-94	Works of art, collections, antiques
69-95	Products of folk and industrial arts
69-99-330	Industrial scrap given away for public use
71-9	Textile industry scrap
72	Yarns
73-1	Gray textiles
73-2	Cotton textiles
73-3	Flax textiles
73-6	Wool textiles
73-92-000	Impregnated, laminated textiles
74-53	Drapery
75-81-000	Textile industry fibers, fiber scrap
75-82-000	Yarn scrap
75-83-000	Textile scrap
75-89-000	Other textile industry scrap
76-1	Manufactured woven underwear
76-2	Manufactured knitted underwear
77-1	Manufactured woven outerwear
77-2	Manufactured knitted outerwear
77-4	Outerwear, made by other technologies
78-1	Bedding
78-2	Household textiles
78-32-200	Knitted shawls, kerchiefs, and stoles
78-35-000	Handkerchiefs
78-5	Socks and stockings
78-8	Tents and tarpaulins

**List of Products Requiring Export License in 1991  
(Continued)**

KTJ [Commercial Product Register] number	Product
78-99-000	Manufactured byproducts and scrap
80-11-00	Bony beef
80-2	Bony veal
80-14	Bony pork
80-15-000	Bony mutton
80-19-006	Slaughtered goat
80-48-400	Raw pork hide
80-51-100	Cut beef
80-51-200	Cut veal
80-51-400	Cut pork
80-52-100	Boned beef
80-52-400	Boned pork
81-1	Slaughtered poultry
81-26-100	Goose liver
82-11	Cow's milk
82-52-100	Sheep cheese
83-3	Canned tomatoes
83-76-000	Paprika semiproducts
83-81-100	Ground paprika
84-1	Flour
84-3	Milling industry fodder
84-50-000	Mixed fodder
85-10-000	Raw sugar
85-20-000	Granulated sugar
85-3	Refined sugar
86-12-100	Raw sunflower oil
86-2	Refined vegetable oil
86-30-000	Hardened vegetable oil
86-41-100	Sunflower cooking oil
88-31-410	Barreled grape wine
88-31-420	Bottled grape wine
88-31-500	Sparkling grape wine
89-12-000	Fermented tobacco
89-2	Tobacco products
91-11-01	Wheat
91-11-02	Rye
91-11-03	Triticale
91-11-05	Fall barley, fall fodder barley
91-11-06	Spring barley, spring fodder barley, beer barley
91-11-07	Oat
91-11-08	Corn

**List of Products Requiring Export License in 1991  
(Continued)**

KTJ [Commercial Product Register] number	Product
91-12-022	Fodder peas
91-21-010	Beat sugar
91-22-01	Sunflower seeds
91-27-050	Poppy-heads
91-31-012	Eating potatoes
92-13-010	Red onions
92-15-010	Cucumbers
92-17-040	Aromatic spice paprika
92-2	Fruits
93-1	Cattle and products of cattle raising
93-2	Hogs and products of hog raising
93-3	Sheep and products of sheep raising, except 93-32-020 fatty wool
93-5	Poultry and products of poultry farming
93-81-080	Slaughtered goat
93-82-110	Live edible snails
93-91-010	Raw feather
94-2	Original wood products, except 94-21-4 lumber industry exota saw-logs
94-36-000	Thick firewood
94-37-000	Thin firewood, coca, Indian hemp

Regarding those goods that are not listed—or are only partially listed—by number in the foreign trade list of products, the following require licensing for export:

- All those nuclear exports (exports of products, rights related to products, and services) which require a prior license of the National Atomic Energy Committee in accordance with decree 2/1986.(I.9.)MT [Council of Ministers], Paragraph 3.(1), dealing with nuclear exports, for signing foreign trade contracts;
- Scrap that can be used as secondary raw material, not found in this list;
- Endangered wild species of plants and animals falling under statute 1986/15.;
- Products falling under the present Government Decree require licensing (also) in accordance with Government Decree 61/1990.(X.1.), governing the licensing of the trade of individual internationally controlled products and technologies;
- The exporting of psychotrope materials, (also) falling under the joint decree 4/1980.(VI.24.)EuM-BM [Ministry of Health, Ministry of the Interior], also require licensing;

—Material and equipment suitable for producing and operating biological weapons:

Biological agents: Organisms that are potential biological weapons and cause disease (for humans, animals or plants),

—P-3 of P-4-level apparatus suitable for handling toxins or organisms capable of producing toxins, and such agents:

High-capacity air filters (HEPA filters); double-exhaust or high-capacity autoclaves; laboratory protective clothing with air supply; microbiological security control cabins; fermentors: fermenting apparatus, especially those capable of self-sterilization; agents: large quantities (items of several hundred kg) of fermenting agents, apparatus used for concentration and shipment of large-volume agents:

Constant-powered centrifuges; extraction columns; filters suitable for concentrating microorganisms of biological weapons; apparatus used for preserving and shipping agents of biological weapons: freezing and cooling apparatus, microcapsulating apparatus, apparatus emitting agents of biological weapons—aerosol generators.

In connection with the exception of products of weapons technology, the exporting of:

- Spare parts;
  - Maintenance (conservation, long-term storage and deconservation) and repair;
  - Installation;
  - Quality control (receipt by the Ministry of Foreign Trade, inspection of type, authentication of their special measuring instruments); and
  - Technical design of these products. Exporting hunting and sports firearms and their ammunitions are also subject to licensing.
- The following activities, rights connected with products, and services are not subject to export licensing:
- Organization (KTJ digits 6 and 7 = "91");
  - Design (KTJ digits 6 and 7 = "99"); if designation includes the words "organization" or "design";
  - The entire sphere of rights representing material value (KTJ digits 6 and 7 = "98") regardless of whether or not the contract of acquisition involves the group of products listed in the Appendix;
  - Installation service (KTJ digits 6 and 7 = "97"); (including the field of technological intellectual services), with the exception of construction activities belonging to category 16;
  - Major repair (KTJ digits 5, 6, and 7 = "999").

## Appendix 1/b.

List of Products Requiring Import License in 1991	
KTJ number	Product
11-1	Coal
11-5	Enriched or compressed heating fuel
12-1	Iron ore
12-60-000	Bauxite
13-15-900	Other precious and semiprecious stones (nonindustrial diamonds)
16-0	Semifinished and complete buildings (industrial, agricultural, transportation, commercial, storage, management, educational, social, residential/hostel, water, other) and related activities (digits 6 and 7, 97)
16-50-097	Activity related to steel reinforced concrete building construction elements
16-84-097	Activity related to light-structure buildings
21-12-000	Pellet ore
21-13-000	Shrinkage
23-9	Precious metals and their alloys
of 29	Silverware, serving utensils, and pans made of precious metals
29-71-110	Coins, plaques, pins made of precious metals (money coins considered valid means of payment may not be imported)
29-80-000	Weapons
29-90-000	Ammunition and explosives
32-90-000	Artillery weapons, other special equipment
41-32-009	Junk passenger cars and parts removed from junk passenger cars
41-32-010	Restored junk passenger cars
41-32-100	Gasoline-fueled passenger cars
41-32-200	Diesel-fueled passenger cars
41-6	Air conveyances
41-80-000	Special conveyances
41-90-000	Special air and water conveyances, ferries
44-12-100	General LB and CB telephone apparatus
44-12-200	Special telephone apparatus
44-12-300	Coin-operated telephone apparatus
44-12-400	Series telephone apparatus
44-12-800	Other machines that automatize telephone apparatus
44-13-310	Automatic telephone sub-switchboards
44-13-320	Automatic telephone main switchboards
44-13-330	Municipal switchboards
44-13-500	Electronic telephone switchboards
44-13-900	Other telephone switchboards
44-14-230	Coaxial transmission equipment
44-14-290	Other transmitting frequency equipment
44-14-900	Other transmission equipment

List of Products Requiring Import License in 1991  
(Continued)

KTJ number	Product
44-21-100	Rkh [middle and short-wave] program transmitting radio stations
44-21-200	FM radio stations
44-21-300	TV stations
44-21-400	Sound duplicating equipment
44-22-000	Special radio stations
44-23-900	Other transmitting and receiving equipment
44-24-100	Narrow channel microwave equipment
44-24-200	Medium channel microwave equipment
44-24-300	Wide channel microwave equipment
44-24-900	Other microwave equipment
44-29-000	Other wireless telecommunication apparatus and equipment
44-32-100	Studio sound transmission equipment
44-90-000	Special telecommunication products
46-75-100	Totaling cash registers
46-75-200	Cash registers with multiple collectors
46-75-300	Special cash registers
46-75-400	Cash registers combined with coin return apparatus
46-75-500	Cash register type data processing machine
46-75-900	Other cash registers and cash register type equipment
46-79-000	Other equipment of administrative technology
47-90-000	Special instruments
51-22-130	Phosgene
of 51-33-900	Phosphorus oxychloride
51-35-100	Hydrogen fluoride
of 51-65-100	Sodium sulfide
of 51-66-100	Ammonia hydrogen fluoride, potassium fluoride, potassium hydrogen fluoride, sodium fluoride
of 51-66-200	Arsenic trichloride
of 51-67-100	Chlorine cyan, hydrogen cyanide, potassium cyanide, sodium cyanide
51-80-000	Radioactive fission materials, isotopes
of 51-94-000	Phosphorus trichloride, tionile chloride, phosphorus pentachloride
of 51-95-000	Phosphorus pentasulfide
52-13-118	Saturated halons and freons
of 52-13-119	Chlorine ethanol
of 52-14-190	Diethyl etanolamine, di-isopropyl beta aminoethane thiole, di-isopropyl beta amoniethanol, di-isopropyl beta aminoethyl chloride, di-isopropylamine, dimethylamine, dimethylamine hydrochloride, triethanolamine



**List of Products Requiring Import License in 1991  
(Continued)**

KTJ number	Product
52-14-790	Trichloride nitromethane
52-14-800	Dimethyl methyl phosphonate, dimethyl hydrogen phosphite, methyl phosphonile dichloride, methyl phosphonile difluoride, thiodiglycol, trimethyl phosphite, diethyl ethyl phosphonate, diethyl methyl phosphonite, diethyl N, N dimethyl phosphor amidate, diethyl phosphite, dimethyl ethyl phosphonate, 0 ethyl 2 di-isopropyl amino ethyl, methyl phosphonite (QL), ethyl phosphinile dichloride, ethyl phosphonile difluoride, ethyl phosphonile dichloride, ethyl phosphonile difluoride, methyl phosphinile difluoride, triethyl phosphite
of 52-22-42	Phenol 1, propanone 2
of 52-25-190	Anthranilic acid
of 52-23-190	Phenol acetic acid
52-12-581	Acetic acid anhydride
of 52-12-340	Ethyl ether
of 52-35-900	Piperidine
of 52-23-190	Benzilic acid, methyl benzilate
of 52-35-900	3 hydroxide 1 methyl piperidine
of 52-36-900	Pinakolone, pinakolite alcohol, e quinuclidinol, 3 quinuclidinone
53-11-200	Amino acids
53-12	Alkaloids
53-30-001	Finished medications for human use, except sero-bacteriological products (Importing insuline (53-13-200) as raw material is not subject to licensing. However, importing pharmaceutical products containing insuline (53-30-001) must be licensed regardless whether or not the word insuline is included in the name of the product.)
53-41-000	Serums for human use
53-44-000	Vitamin concentrates
53-5	Other pharmaceutical products
53-61-000	Dental medicines
53-81-000	Finished human nutritional products
53-90-100	Special pharmaceutical products
54-21-310	Household coke
54-26-000	Charcoal
56-80-000	Special rubber products
57-00-000	Special plastic products
of 57-19	MDI
57-41-000	Foam materials, softening by heat
57-42-000	Foam materials, hardening by heat
57-43-900	Other foam materials

**List of Products Requiring Import License in 1991  
(Continued)**

KTJ number	Product
57-91-000	Profile fibers made by splitting
57-99-000	Plastic processing scrap
58-10-000	Soaking and rinsing agents
58-2	Washing and dish washing agents
58-3	Soaps
59-00-000	Other special chemical products
59-26	Industrial explosives, fireworks materials
59-80-000	Gunpowders, explosives, and pyrotechnic products
62	Building joinery products
63-25-000	Wooden agricultural mass products
63-27-000	School and office supplies, wooden mass products
63-28	Wooden household mass products
64	Furniture products
65-53-100	Notebooks
65-54-300	Office, technical, business rolled paper
65-81-000	Used sulfite alkali
66-63-100	Stamps
67-61	Suitcases, school and brief cases, leather folders
67-62-000	Various cases
67-63-000	Various small products
67-64-000	Other leather goods
67-65-000	Leather caps and clothing apparel
67-70-000	Technical and other leather products
67-81-000	Leather and fur industry byproducts
67-82-000	Leather and fur industry scrap
67-91-000	Other leather products
68-1	Leather and leatherette footwear
68-2	Slippers
68-3	Rubber footwear
68-4	Plastic footwear
68-80-000	Shoe industry scrap
69-3	Jewelry, costume jewelry, fancy articles, and smoking articles
69-40-000	Writing instruments
69-52-710	LP records
69-52-791	Recorded magnetic tapes
69-52-792	Magnetic tapes containing recording
69-6	Brushes, brooms
69-7	Wickerwork
69-94	Works of art, collections, antiques
69-95	Products of folk and industrial arts
69-98-000	Various fuels made of industrial and agricultural scrap
69-99-250	Paraphernalia for entertainment establishments

**List of Products Requiring Import License in 1991  
(Continued)**

KTJ number	Product
69-99-320	Various goods of plant and animal origin
69-99-330	Industrial scrap given away for public needs
71-89-000	Other textile industry byproducts
71-90-005	Blanket scrap
73-23-000	Cotton bedding materials
73-24-000	Cotton household fabrics
73-25-000	Cotton household textiles
73-29-000	Other cotton fabrics
73-33-000	Flax bedding materials
73-34-000	Flax household products
73-35-000	Flax household textiles
73-39-000	Other flax fabrics
73-44-000	Hemp household products
73-46-000	Hemp rugs
73-5	Other finished textile fiber fabrics
73-64-000	Wool blanket fabrics
73-65-000	Wool household textiles
73-66-000	Finished wool and wool-type rugs
73-75-000	Silk household textiles
73-79-000	Other silk fabrics
73-91-100	Nonwoven textiles
73-91-300	Nonwoven household fabrics
73-91-400	Nonwoven household textiles
73-91-500	Nonwoven blanket materials
73-91-600	Nonwoven rugs
73-91-900	Other nonwoven fabrics
73-92-000	Impregnated, laminated textiles
73-93-000	Knitted clothes
73-96-000	Split foil fabrics
73-98-000	Various other textiles
73-99-000	Other processed textiles
74-12-000	Yarns for needlework
74-41-000	Ribbons
74-53-100	Cotton drapery
74-53-200	Synthetic drapery
74-53-900	Drapery made of other materials
75-8	Textile industry scrap
75-90-000	Various other textile products
77-11	Men's upper garments made from woven materials
77-12	Ladies' upper garments made from woven materials
77-13	Boys' upper garments made from woven materials
77-14	Girls' upper garments made from woven materials
77-16-000	Work clothes

**List of Products Requiring Import License in 1991  
(Continued)**

KTJ number	Product
77-17-000	Woven uniform upper garments
77-21	Men's upper garments made from knitted materials
77-22	Ladies' upper garments made from knitted materials
77-23-000	Boys' upper garments made from knitted materials
77-24-000	Girls' upper garments made from knitted materials
77-3	Leather and furred leather upper garments
77-41	Men's upper garments made from other materials
77-42	Ladies' upper garments made from other materials
77-43-000	Boys' upper garments made from other materials
77-44-000	Girls' upper garments made from other materials
77-80-000	Semifinished upper garments
78-1	Bedding
78-2	Household textiles
78-3	Fashion goods and clothing accessories
78-4	Gloves
78-8	Tents, tarpaulins
78-9	Various other clothing and manufactured products (including used clothing)
80-1	Bony raw meat
80-5	Semifinished products and byproducts originating from processing meat and bacon
80-6	Meat and bacon products
81	Poultry and egg processing industry products
82-11	Cow's milk
82-4	Butter
82-5	Cheese
82-71	Eating milk powder
82-72-000	Fodder milk powder
82-79-000	Other powdered milk products (not including fodder whey powder)
83-1	Canned fruit
83-2	Canned cooked vegetables
83-3	Canned tomatoes
83-4	Pickles
83-51	Canned food preserved by heat (ready-made food)
83-52	Rapidly frozen canned food
83-56-000	Heat-processed semiprepared canned food
83-57-000	Semiprepared rapidly frozen canned food
83-58-000	Baby food made from ready-made food
83-59-000	Other canned food
83-6	Canned food of animal origin
83-71-3000	Fruit pulp
83-72-000	Canned fruit preproducts
83-74-000	Canned cooked vegetables preproducts

List of Products Requiring Import License in 1991  
(Continued)

KTJ number	Product
83-74-000	Pickled pre-products
83-76-000	Semiprepared paprika products
83-90-000	Other preserved products
84-1	Flour
84-2	Bran
84-3	Milling industry fodder
84-50-000	Mixed fodder
85-10-000	Raw sugar
85-20-000	Granulated sugar
85-3	Refined sugar
86-12-100	Raw sunflower oil
84-12-200	Rape oil
84-12-400	Soy bean oil
86-30-000	Hardened vegetable oil
86-41-100	Sunflower cooking oil
86-60-000	Margarine
87	Baking, pasta, confectionary products (including roasted coffee)
88-1	Distilled spirit products
88-2	Distilled spirits
88-3	Wine products
88-4	Beer products
88-5	Mineral and soda water, nonalcoholic beverages
88-85-000	Liquid sugar
89-12-000	Fermented tobacco
89-2	Tobacco products
89-4	Seed kernels
89-80-900	Other food products
89-9	Food scrap
91-11-012	Fodder barley
91-11-013	Eating wheat
91-11-022	Fodder rye
91-11-023	Eating rye
91-11-033	Eating triticale
91-11-052	Fodder barley
91-11-053	Fall eating barley
91-11-062	Spring fodder barley
91-11-063	Spring eating barley
91-11-064	Beer barley
91-11-082	Fodder corn
91-11-083	Eating corn
91-11-084	Industrial corn
91-12-013	Eating beans

List of Products Requiring Import License in 1991  
(Continued)

KTJ number	Product
91-12-022	Fodder peas
91-12-023	Eating peas
91-12-033	Eating lentils
91-21-010	Beat sugar
91-22-082	Industrial poppies
91-22-083	Eating poppies
91-27-050	Poppy-heads
91-31-012	Eating potatoes
91-31-014	Industrial potatoes
91-48-010	Mixed seeds for bird feeding
92-11	Cabbages
92-12-010	Carrots
92-13	Onions
92-15	Squash, pumpkins
92-16	Legumes
92-17	Tomatoes, paprika, egg plant
92-18	Other produce (sweet corn, asparagus, cultivated mushrooms)
321-010	Apples
92-21-020	Pears
92-22	Stone fruits
92-23-060	Chestnuts
92-24	Berries
92-25	Tropical fruits
92-31-010	Wine grapes
92-31-020	Sweet grapes
93	Live animals and animal products, except 93-32-020 fatty wool, coca, Indian hemp

Regarding those goods which are not listed—or are only partially listed—by number in the foreign trade list of products, the following require licensing to import:

- Scrap usable as secondary raw materials not included in this list;
- Endangered animal and plant species falling under statute 1986/15.;
- Products falling under the present Government Decree require licensing (also) in accordance with Government Decree 61/1990.(X.I.), governing the licensing of the trade of individual internationally controlled products and technologies;
- Uranium ore;

—The importing of psychotrope materials, (also) falling under joint decree 4/1980.(VI.24.)EuM-BM, also require licensing;

—Material and equipment suitable for producing and operating handling biological weapons.

#### Biological agents:

—Organisms that are potential biological weapons, causing disease (for humans, animals or plants);

—P-3 of P-4-level apparatus suitable for handling toxins or organisms capable of producing toxins, and such agents:

—High-capacity air filters (HEPA filters),

—Double-exhaust or high-capacity autoclaves,

—Laboratory protective clothing with air supply,

—Microbiological security control cabins.

#### Fermentors:

—Fermenting apparatus, especially those capable of self-sterilization.

#### Agents:

—Large quantities (items of several hundred kg) of fermenting agents.

Apparatus used for concentration and shipment of large-volume agents:

—Constant-powered centrifuges;

—Extraction columns;

—Filters suitable for concentrating microorganisms of biological weapons.

Apparatus used for preserving and shipping agents of biological weapons:

—Freezing and cooling apparatus;

—Microcapsulating apparatus.

Apparatus emitting agents of biological weapons:

—Aerosol generators;

—Intelligence devices (photographic technology, cameras, and transmitters, fixtures).

Self-defense devices (e.g., gas sprays, gas pistols), coercive instruments and other products related to law enforcement (e.g., handcuffs, truncheons).

In connection with the exception of products of weapons technology, the importing of:

—Spare parts;

—Maintenance (conservation, long-term storage and deconservation) and repair;

—Installation;

—Quality control (receipt by the Ministry of Foreign Trade, type inspection, authentication of their special measuring instruments); and

—Technical design of these products. Importing hunting and sports firearms and their ammunitions are also subject to licensing.

The following activities, rights connected with products, and services are not subject to import licensing:

—Organization (KTJ digits 6 and 7 = "91");

—Design (KTJ digits 6 and 7 = "99"), if designation includes the words "organization" or "design";

—The entire sphere of rights representing material value (KTJ digits 6 and 7 = "98"), regardless whether or not the contract of acquisition involves the group of products listed in the Appendix;

—Installation service (KTJ digits 6 and 7 = "97") (including the field of technological intellectual services), with the exception of construction activities belonging to category 16;

—Major repair (KTJ digits 5, 6, and 7 = "999").

#### Appendix 2.

#### Terminology of Export and Import Articles Requiring Special Licensing by the Ministry of International Economic Relations

ITJ [Industrial Products Register] number	Item	Kind of License
<b>1. Energy sources, fuels</b>		
11	Mineral energy sources, briquette, except 11-4 peat, 11-6 other carbon-based fuels	Export/Import
51-8	Radioactive fission materials, isotopes	Export/Import
54-21	Black mineral coal cokes	Export/Import
54-22	Brown mineral coal cokes	Export/Import
55-1	Light products made from crude oil and gas processing, except 55-11 gas products, 55-12 gasoline and pentane	Export/Import
55-22	Heating oil	Export/Import
<b>2. Precious metals, articles made of precious metals, scrap containing precious metals, precious stones</b>		
13-15	Precious and semi-precious stones, except 13-15-1 industrial diamonds	Export/Import
23-9	Precious metals and their alloys	Export/Import

**Terminology of Export and Import Articles Requiring Special Licensing by the Ministry of International Economic Relations (Continued)**

ITJ [Industrial Products Register] number	Item	Kind of License
29-3	"Metal silverware and serving utensils" made of precious metals	Export/Import
29-4	"Household metal pans" made of precious metals	Export/Import
29-71-11	Coins, plaques, pins made of precious metals	Export/Import
69-3	Jewelry, costume jewelry, fancy articles, and smoking articles made of precious metals and precious stones	Export/Import

3. Products whose trade is limited on the basis of environmental and health protection and other considerations

51-22-13	Phosgene	Export/Import
51-33	Phosphorus oxychloride from "Phosphoric acid compounds"	Export/Import
51-67-1	Cyanide	Export/Import
51-94-3	Phosphorus trichloride from "Compounds of the nitrogen group"	Export/Import
52-1	"Aliphatic compounds" in accordance with international agreements on environmental protection	Export/Import
53-12	Alkaloids	Export/Import
59-26	Industrial explosives, fireworks materials	Export/Import

4. Products with limited trade resulting from international agreements (license requirement is in effect until 1 July 1991)

80-14	Bony pork meat	Export
80-51-4	Cut pork and meat parts	(only with regard to Common Market countries)
80-52-4	Boned pork	

The following items, not mentioned in the Appendix, are also subject to licensing:

- Both the exports and imports of psychotrope materials (medicines) falling under the joint decree 4/1980.(VI.24.)EuM-BM, with several modifications;
- The exports of scraps that can be used as secondary raw materials, including their precious metal content;
- Both the exports and imports of devices and materials included in the List of Products of Weapons Technology, as well as firearms (regardless of the purpose of their use);

4. Trade representative (agency) activities, devices, and materials of weapons technology, drugs, psychotrope materials (medicines), materials with multiple uses, as well as nuclear materials.

Of the rights representing material value which are not subject to licensing, the exporting and importing of author's and publisher's rights is possible through the official channels specified in decree 9/1969.(XII.29.)MM [Ministry of Labor].

Foreign-related industrial patent activities may be carried out by those who are qualified to engage in activities as patent agent in accordance with decree 5/1976.(III.30.)MT.

Exports (imports) of the products listed in the Appendix may be carried out by firms which meet the following requirements:

1. Energy Sources

They subscribe to the requirement of maintaining the prescribed amount of reserves.

2. Precious Metals, Articles Made of Precious Metals, Scrap Containing Precious Metals, Precious Stones

They observe the law decree 1965/14 and decrees 11/1965.(VIII.3.)PM [Ministry of Finance] and 37/1967.(XII.29.)PM on precious metal management, i.e., they meet the requirements specified in them, and follow the MNB [Hungarian National Bank] regulations.

3. Materials Endangering the Environment and Health and Threatening Public Safety

They have the material and personal means to meet the requirements related to safe protection, storage, and transport, and supervisable trade.

4. Products With Limited Trade Resulting From International Agreements

A price guarantee agreement is in effect.

Terimpex [Foreign Trade Enterprise for Livestock and Crops] is the designated distributor in the European Common Market.

Commentary: Licensing connected to the requirements described above does not affect entitlements already existing (affecting only new applicants), therefore, requesting new licensing is not necessary.

**Decree on Trade Protection**

91CH0264A Budapest MAGYAR KOZLONY  
in Hungarian No 131, 23 Dec 90 p 2566

["Text" of the government's Decree 113/1990.(XII.XXIII.) on Applicable Measures of Market Protection Regarding the Imports of Goods, Services, and Rights Representing Material Value, signed by Prime Minister Dr. Jozsef Antall]

[Text] By the authority of Statute 1974/III. Paragraph 29, and in consideration of its obligations in joining the General Agreement on Tariffs and Trade, the government decrees the following with regard to the importing of goods, services, and rights representing material value (in the following: goods).

#### Paragraph 1

If any goods are imported into the territory of the Republic of Hungary in an increased quantity or under circumstances which cause significant damages or threaten to cause damages to domestic manufacturers making directly competing products, measures of market protection, specified in this decree, may be introduced with regard to said imports.

#### Paragraph 2

In case of, and in order to avert, damage or the threat of damage mentioned in Paragraph 1, the minister of international economic relations, listening to the opinions of the ministers concerned, producers, and consumer interest groups, may, for a maximum time period of one year:

- a) determine an import contingent;
- b) levy additional tariffs, in agreement with the minister of finance and the chairman of the Competition Office and in consideration of international obligations of the Republic of Hungary;
- c) require a commitment from the exporter as to the quantity and/or price of the goods to be imported;
- d) take other measures of prevention or remedy (hereinafter: protective measures) such as revoking or modifying business licences or imposing requirements of licensing.

#### Paragraph 3

1. The process of taking protective measures may be initiated either by petition or ex officio.
2. A petition must be submitted in writing by the producer(s) of the goods affected by imports to the Ministry of International Economic Relations. The petition must present facts and data related to the imports in question and the grounds for the threat of damage.
3. A domestic producer is understood to mean one who produces or manufactures on the domestic market a significant domestic part of the goods concerned.
4. A substantial decision that closes the process must be made within 90 days from the submission of the petition or from the date of the ex officio initiation.
5. The parties concerned (the product's exporters and/or importers, the product's domestic manufacturers, and the exporting country's appropriate authorities) must be informed in writing of the process' initiation or the substantial decision which must also be published in the official paper of the Ministry of International Economic Relations.

6. Prior to taking protective measures that affect a wide circle of consumers, the standpoints of consumer interest groups must also be obtained.

#### Paragraph 4

The contents of the present decree must be applied where an international agreement has no different stipulations.

#### Paragraph 5

In the process aimed at taking a market-protective measure, the orders of Statute 1957/IV, dealing with general regulations of state administrative processes, must be applied, including the modifications found in decree 1/1982.(I.XVI.)KkM [Ministry of Foreign Trade].

#### Paragraph 6

The present decree becomes effective on 1 January 1991.  
(signed) Prime Minister Dr. Jozsef Antall

#### Decree on Antidumping Practices

91CH0262A Budapest MAGYAR KOZLONY  
in Hungarian No 131, 23 Dec 90 pp 2553-2554

["Text" of the government's Decree 111/1990 (XII.XXIII.) on Antidumping Practices, signed by Prime Minister Dr. Jozsef Antall]

[Text] Regarding Decree 40/1980 (X.VII.) MT, announcing the agreement on the implementation of Article VI, General Customs and Trade Agreement, signed in Geneva on 12 April 1979, and the implementation of the said agreement, the government decrees the following:

#### Paragraph 1

1. In the case of dumping goods of foreign origin brought into the territory of the Republic of Hungary, causing or threatening to cause damages, an antidumping process (hereafter called the process) may be initiated.
2. Price comparison will be based on the product's domestic market price and its general market price in the exporting countries.

#### Paragraph 2

1. The process will be conducted, with the participation of the ministers concerned, as well as organizations representing the interests of producers and consumers, by the Ministry of International Economic Relations (hereafter called the ministry).
2. The process will be initiated either ex officio or by petition.

**Paragraph 3**

1. The process will be initiated by the written petition of a significant number of domestic producers affected by the dumping of goods causing or threatening to cause damages.
2. The petition must include:
  - a) Designation of the dumped good(s);
  - b) Name and address of the exporter;
  - c) Names of persons initiating the process;
  - d) A petition for a decision by the ministry; as well as
  - e) A presentation of facts and evidence for the said decision, especially as related to:
    - (1) The dumping;
    - (2) The kind and extent of the damage, or the kind and extent of the threat of damage; moreover,
    - (3) The relation of cause and effect between the dumping and the damage or threat of damage.
3. If the petition does not comply with the requirements of Paragraph 3, article 2. e) or is in need of modifications or additions, the ministry will return the petition within 30 days to the initiators of the process for completion.
4. The ministry will disallow a returned incomplete petition that is resubmitted and found to be once again incomplete.

**Paragraph 4**

The process may also be initiated ex officio in the cognizance of facts and evidence listed under Paragraph 3, article 2. e).

**Paragraph 5**

1. All parties concerned, especially the initiators of the process, the responsible authorities, and exporter(s) of the country concerned, must be notified about the initiation of the process in writing.
2. At the time of initiating the process, the ministry will make an announcement to that effect in the *MAGYAR KOZLONY*.
3. Within 30 days of the announcement, the foreign exporter(s) and other parties concerned may submit to the ministry any evidence that they deem necessary for consideration in the process.

**Paragraph 6**

The ministry will close the process with a decision within 120 days:

1. From the date of a petition's submission in case of a process initiated by petition, or, in the case of a petition returned for completion, from the date of resubmission;

2. From the date of initiating the process in case of a process initiated ex officio.

**Paragraph 7**

1. If the dumping that caused damages or threatened to cause damages is proven, the ministry, in agreement with the minister of finance, may levy antidumping duties on the product under scrutiny for a maximum period of five years.
2. The amount of antidumping duties may not be higher than the determined dumping margin and may not be in excess of the amount necessary for eliminating the damages or averting the threat of damages.

**Paragraph 8**

The antidumping duties levied will be collected by the Customs and Internal Revenue Police.

**Paragraph 9**

1. The ministry may refrain from levying the antidumping duties if the exporter(s) pledge(s) an appropriate commitment to eliminate the dumping differential.
2. The ministry will regularly monitor the adherence to the commitment to eliminate the dumping differential.

**Paragraph 10**

The decrees of statute 1957/IV, together with the modifications included in decree 1/1982. (I.16.) KkM, must be applied during the process.

**Paragraph 11**

1. Decree 40/1980. (IX.7.) MT must be applied to issues not covered by the decree.
  2. This decree will become effective as of 1 January 1991.
- (Signed) Dr. Jozsef Antall, prime minister

**Decree on Reorganization of Crude Oil, Gas Industry, Commerce**

*91CH0302A Budapest MAGYAR KOZLONY  
in Hungarian No 117, 22 Nov 90 pp 2310-2311*

[Government Decree No. 94/1990 (22 Nov) Korm. Concerning the Reorganization of the Hungarian Crude Oil and Gas Industry and Commerce]

[Text] Acting under the authority of Paragraph 53. Section (2) of Law No. 6 of 1977 concerning state enterprises the Government establishes the following rule:

**Paragraph 1**

Paragraph 1. Section (1) To prepare for the reorganization of the Hungarian crude oil and gas industry and

commerce, and in order to implement the transformation program to be approved by the government, the government assigns the function of directly managing the National Crude Oil and Gas Industry Trust [OKGT] under the jurisdiction of the minister of industry and commerce (hereinafter: the Minister). The Minister shall exercise this authority through two personal delegates.

Paragraph 1. Section (2) The following matters in particular constitute the authority of the Minister (his personal delegate):

- approval of the organizational and operating rules of the trust;
- approval of the management, planning, incentive, and settlement systems;
- approval of the trust's management policy, medium and long-term plans and the directions of the trust's economic and technical development [program];
- approval of the designation of enterprise activities within the scope of activities established by resolutions and approved by the trust's constituting enterprises, the initiation of changes in the scope of activities, and the approval of enterprise initiatives [and] the initiation of the establishment, reorganization, and termination of enterprises [as published];
- approval of investing the trust's funds and material assets, including the issuance of bonds;
- approval of centralizing, and directing the use of the enterprises' developmental funds. In the course of implementing the trust's long-range and medium-range management tasks, the Minister exercises the authority of directing and of regrouping the funds;
- approval of preparing and submitting to the cabinet for its decision a proposal concerning the comprehensive transformation of the trust;
- approval of directing the implementing the transformation program approved by the cabinet.

#### Paragraph 2

Simultaneously, Sections (3) and (4) of the OKGT's Founding resolution shall be replaced with the following text:

“(3) The board of directors shall comment regarding the following:

- “—the organizational and operating rules of the trust;
- “—development of the management, planning, incentive, and settlement systems;
- “—the trust's management policy, medium and long-term plans, and the directions of the trust's economic and technical development;
- “—the initiation of the establishment, reorganization, and termination of enterprises;
- “—the investing of the trust's funds and material assets, including the issuance of bonds;
- “—initiatives to centralize, and direct the use of the enterprises' funds, and initiatives to direct enterprises and to regroup the funds of enterprises [as published].

“(4) The authority of the president includes the following:

- “—the appointment of the presidents of enterprises within the trust along with [as published] seeking the founder's and the personal delegate's opinion in advance, and the exercise of the employer's authority over presidents of enterprises within the trust;
- “—approval of the chief indexes of the trust's annual plan;
- “—approval of the trust's annual financial statement;
- “—the issuance of directions having mandatory effect on enterprises and regarding specific functions which are not under the decisionmaking authority of the personal delegate, and in a manner consistent with the applicable provisions of the organizational and operating rules.”

#### Paragraph 3

This decree takes force on the day it is proclaimed.

For the prime minister: [Signed] Dr. Balazs Horvath,  
interior minister



## Law on Protection of State Border

91EP0200A Warsaw DZIENNIK USTAW in Polish  
No 78 Item No 461, 19 Nov 90 pp 1049-1051

[Law dated 12 October 1990 governing the protection of the state border]

[Text]

### Chapter 1. The State Border

Article 1. The border of the Republic of Poland, herein-after referred to as "the state border," is a vertical surface passing through the boundary line separating the territory of the Polish state from the territories of other countries and from the deep sea. The state border also demarcates the Polish airspace, waters, and minerals beneath the surface.

Article 2. The course of the state border overland and the boundary line demarcating the internal sea waters and the offshore zone of the territorial sea shared with other countries are defined in the international agreements concluded by the Republic of Poland.

Article 3. The state border at sea runs at a distance of 12 nautical miles from the basic line defined in separate regulations or from the external boundary of the roadsteads included in the territorial sea.

Article 4.1. The course of the state border overland and at sea is denoted by border markers.

4.2. The international agreements concluded by the Republic of Poland with the neighboring countries define the location, shape, size, and color of the border markers and the rules for their maintenance.

Article 5. The state border, whenever not otherwise regulated by international agreements concluded with the neighboring countries, is determined:

1) On land and at sites at which the state border bisects standing or flowing waters and crosses over to the other shore—in accordance with a median drawn from one border marker to another.

2) On rivers, streams, rivulets, and nonnavigable channels—along a median running through the middle of the bed.

3) On navigable rivers—along a median running through the middle of the main water route or the main current.

5.2. "Border waters" are construed as the rivers, channels, and inland standing waters across which the state border runs.

Article 6. The Republic of Poland exercises its sovereignty over the land territory, the minerals beneath the surface, the internal sea waters and the offshore zone of the sea and the minerals beneath the sea bottom, and also over the airspace above its land territory, as well as above the internal sea waters and the offshore zone of the sea.

Article 7.1. The minister of internal affairs is responsible for protecting the state border on land and sea and for the control of border traffic to the extent defined by separate regulations.

7.2. The minister of national defense is responsible for protecting the state border in the airspace of the Republic of Poland.

7.3. The duties of the minister of internal affairs referred to in Paragraph 1 are exercised by the Commanding Officer of the Border Guards.

### Chapter 2. The Border Zone

Article 8. With the object of protecting the border, a strip of land running along the border and a border zone are established.

Article 9.1. The strip of land running along the border is 15 meters wide, starting at the border in the direction of the inland territory, or starting at the shore line of border waters or of the sea.

9.2. If so indicated directly by the needs relating to the protection of the state border, the voivode may, on the proposal or recommendation of the concerned state border protection office, declare certain segments of the border strip off bounds.

9.3. The prohibition referred to in Paragraph 2 does not apply to owners or users of the land located in the border strip.

9.4. The prohibition referred to in Paragraph 2 may not be applied on signposted tourist routes, seashore areas, and bathing areas.

9.5. The segments of the border strip which are declared off bounds are marked in readily visible areas with signposts bearing the inscription, "Border Strip—Entry Prohibited."

Article 10.1. On land located within the border strip the Border Guards may exercise their duties relating to the marking and protection of the state border and the construction of facilities serving such protection. The owners or users of such land are obligated to facilitate the performance of these activities.

10.2. For technical reasons the construction of facilities serving to protect the state border is also permitted outside the border strip.

10.3. Real estate owners are entitled to compensation in accordance with the provisions of civil law for damage caused by the activities referred to in Paragraphs 1 and 2.

Article 11.1. Within the border strip the land and forest adjoining the state border or the banks of border rivers

should be maintained in a condition safeguarding the visibility of the state border line and border markers.

11.2. Owners and users of the land and forests referred to in Paragraph 1 are obligated to clear, in return for financial compensation on terms agreed upon with the appropriate state border protection offices, said land and forests of trees, bushes, and other plants to a width specified in the international agreements concluded by the Republic of Poland.

11.3. In the event of failure to perform the obligations ensuing from the provisions referred to in Paragraphs 1 and 2, the concerned state border protection office may order the clearing of such land and forests.

11.4. The costs of maintaining the course of the state border in a condition rendering it visible, along with the maintenance of border markers, are defrayed from the [border] voivodship budgets.

Article 12.1. The border zone comprises the entire area of the gminas [townships] adjoining the state border. If the width of the border zone then is still less than 15 km, the adjoining gminas whose areas are situated entirely or partially within 15 km from the state border also are included in the border zone.

12.2. The extent of the border zone is shown by signposts bearing the inscription "Border Zone."

Article 13. The minister of internal affairs issues an executive order defining the rules for the utilization of border waters and for tourism within the border zone.

### Chapter 3. Crossing the State Border

Article 14.1. Crossing the state border is permitted across the designated frontier crossing points or those that are open to border traffic, on the basis of documents authorizing the crossing. Such documents are defined by separate regulations.

14.2. Crossing the state border is permitted outside the frontier crossing points on terms and by the procedure specified in the agreements concluded between the Republic of Poland and the neighboring countries.

14.3. The provisions of Paragraphs 1 and 2 do not violate the right to unimpeded voyage across the offshore sea zone belonging to the Republic of Poland.

14.4. The minister of internal affairs shall, in cooperation with the ministers of national defense, transportation and navigation, and foreign economic cooperation, define in an executive order the territorial extent of border crossings and the procedure and requirements for crossing the state border.

Article 15.1. Persons crossing the state border are obligated to undergo border inspection performed by authorized personnel of the Border Guards.

15.2. During the border inspection the persons referred to in Paragraph 1 are obligated to provide explanations relating to crossing the state border.

15.3. In the event of a justified suspicion of perpetration of a deed prohibited on pain of penalty, the person referred to in Paragraph 1 is obligated to make available for inspection articles, luggage, and means of transportation, and he or she also should accept undergoing a personal search when so demanded by Border Guards personnel.

15.4. The border inspection referred to in Paragraphs 1 and 3 may be performed with the assistance of technical devices or trained dogs.

Article 16.1. Highway, rail, and river border crossings and the kinds of traffic permitted at these crossings are specified in international agreements.

16.2. The Council of Ministers determines, by means of an executive order, the sea border crossings as well as regular airport border crossings.

16.3. The minister of internal affairs may, in cooperation with interested ministers:

- 1) Establish additional airport border crossings for a specified period of time.

- 2) Order temporary closings of specified border crossings or curtail traffic at these crossings for reasons of national security or public order, or with the object of protecting human life or health, and also with the object of preventing the spread of animal epidemics.

16.4. The minister of internal affairs announces in *DZIENNIK URZEDOWY RZECZYPOSPOLITEJ POLSKIEJ* "MONITOR POLSKI" the border crossings, the kinds of traffic allowed through these crossings, and the hours they are open.

Article 17.1. The offices dutybound to maintain border crossings permanently in a condition serving to implement effective border controls and customs, sanitary, veterinary, phytosanitary, and chemical and radiometric inspections at the border are those of:

- 1) The minister of transportation and navigation, as regards rail, air, and sea border crossings.

- 2) The minister of environmental protection, natural resources, and forestry, as regards river border crossings and night-demurrage points on border rivers.

- 3) The proper voivode, as regards highway border crossings.

17.2. The Council of Ministers defines in an executive order the scope of duties of the agencies obligated to maintain border crossings, the sources of funding for these activities, and the offices obligated to install and maintain border markers on internal sea waters.

Article 18.1. The performance of flights in the airspace of the Republic of Poland by domestic and foreign civilian aircraft and the conditions for their crossing the state border are defined by separate regulations and international agreements to which the Republic of Poland is a party.

18.2. The conditions for the performance of flights within the airspace of the Republic of Poland by domestic and foreign military aircraft are defined by the minister of national defense.

#### Chapter 4. Final Provisions

Article 19.1. The Decree of 23 March 1956 on Protection of the State Border (Dz.U., No. 9, Item No. 51, 1956; No. 27, Item No. 168, 1959; No. 13, Item No. 95, 1969; No. 37, Item No. 162, 1977; and No. 34, Item No. 198, 1990) is hereby declared null and void.

19.2. Until the implementing regulations envisaged in this Law are issued, the existing regulations remain binding insofar as they do not conflict with this Law, but for not longer than six months.

Article 20. This Law takes effect on the day of its publication.

President of the Republic of Poland: W. Jaruzelski.

#### Law Governing Border Guard Service

91EP0201A Warsaw DZIENNIK USTAW in Polish  
No 78 Item No 462, 19 Nov 90 pp 1051-1066

[Law dated 12 October 1990 governing the Border Guard]

[Text]

#### Chapter 1. General Provisions

Article 1.1. To protect the state border on land and at sea and to control border traffic, an identically uniformed and armed formation, the Border Guard, is established.

1.2. The duties of the Border Guard include:

- 1) Protection of the state border.
- 2) Organization and handling of border traffic clearance.
- 3) Granting permits, including visas, for crossing the state border.
- 4) Identification, prevention, and detection of crimes and offenses and the pursuit and apprehension of their perpetrators to the extent defined by the Law on the Protection of the State Border and other laws.
- 5) Safeguarding public order in the area of border crossings and, within the scope of the powers of the Guard, also within the border zone.

6) Installation and maintenance of border markers on land and the preparation, updating, and storage of geodetic and cartographic border records.

7) Protecting the inviolability of the signposts and installations serving to protect the state border.

8) Implementing the provisions of international agreements on legal relations at the state border.

9) Collection and processing of information on state border protection and border traffic control and the provision of said information to the competent state agencies.

10) Supervision of the utilization of the Polish territorial sea waters and of the adherence by vessels to the regulations governing these waters.

11) Protecting the state border in the airspace of the Republic of Poland by keeping a watch on the aircraft and flying objects overflying the state border at low altitudes and notifying accordingly the proper units of the Air Force and Air Defense Troops.

12) Preventing the transportation across the state border of hazardous wastes and chemicals as well as radioactive materials, and also preventing the pollution of border waters.

13) Preventing the movement of narcotics and psychotropic substances across the state border.

14) Performing duties defined in other laws.

1.3. The Border Guard cooperate with the border protection agencies of other countries in protecting the state border and controlling border traffic.

Article 2. Agencies of the general government administration and of local governments as well as state and other organizational entities are obligated to cooperate with the agencies protecting the state border and provide them with the necessary conditions for implementing their lawful duties.

#### Chapter 2. Organizational Structure of the Border Guard

Article 3.1. The central office of the state administration in matters relating to state border protection and border traffic control is that of the Commanding Officer of the Border Guard, who is subordinated to the Minister of Internal Affairs.

3.2. The Commanding Officer of the Border Guard is appointed and recalled by the Chairman of the Council of Ministers on the recommendation of the Minister of Internal Affairs, after consulting the Political Advisory Committee under the Minister of Internal Affairs.

3.3. The Commanding Officer of the Border Guard is the official superior of all Border Guard personnel, hereinafter referred to as "the Personnel."

Article 4. In the event mobilization is announced, and in wartime, the Border Guard becomes, by virtue of law, part of the Armed Forces of the Republic of Poland, subordinated to the Minister of National Defense.

Article 5.1. The local offices of the Border Guard are those of the:

1) Commanders of Border Guard units.

2) Commanders of watchtowers as well as commanders of border control outposts and subunits of the Border Guard.

5.2. Commanders of Border Guard units are appointed and recalled by the Minister of Internal Affairs on the recommendation of the Commanding Officer of the Border Guard.

5.3. Watchtower commanders and commanders of the border control posts and subunits of the Border Guard are appointed and recalled by the Commanding Officer of the Border Guard on the recommendation of the commander of the Border Guard unit.

5.4. The commanders of the units, watchtowers, and border control posts and subunits of the Border Guard are the official superiors of all the Personnel subordinated to them.

5.5. The Commanding Officer of the Border Guard and the commanders of Border Guard units perform their duties with the aid of the offices they direct, hereinafter referred to as "headquarters," while the commanders of Border Guard watchtowers and border control posts and subunits perform their duties with the aid of the watchtowers, border control posts, and subunits subordinated to them.

Article 6. The Commanding Officer of the Border Guard defines the specific scope of duties and the territorial scope of action of the local Border Guard outposts as well as the organizational structure of the headquarters, watchtowers, border control posts, and subunits.

Article 7. The Minister of Internal Affairs defines the guidelines for the salaries paid to the Border Guard.

Article 8. The operating expenditures of the Border Guard are defrayed from the State Budget.

### Chapter 3. Scope of Powers of the Border Guard

Article 9.1. With the object of identifying, preventing, and detecting crimes and offenses to the extent defined by the Law on the Protection of the State Border and other laws, Border Guard personnel perform border service, conduct border operations, perform operational, reconnaissance and administrative activities, and institute preparatory proceedings pursuant to the provisions of the Code of Criminal Proceedings, as well as implementing activities recommended by the courts and the procurature to the extent to which this obligation is defined in separate regulations.

9.2. Within the scope of their powers, the Personnel may obtain clandestine and confidential information, collect it, and verify and process it.

9.3. In exercising their duties the Personnel may avail themselves of the assistance of citizens who are not personnel.

9.4. In pursuing the activities referred to in Paragraphs 2 and 3 the Personnel correspondingly have the powers of and are bound by the restrictions applying to Police personnel.

9.5. In exercising their duties the Personnel are duty-bound to respect the dignity of citizens and to adhere to and protect the rights of man.

9.6. With the object of engaging in the activities referred to in Article 1, Paragraph 2, Border Guard personnel may be appointed to exercise the corresponding duties of border representatives.

9.7. The Commanding Officer of the Border Guard defines the manner in which border service is performed and border activities are engaged in.

Article 10. Commanders of the border control posts of the Border Guard coordinate the activities of the offices and institutions operating at border crossings to the extent referred to in Article 9, Paragraph 1.

Article 11.1. In exercising the duties referred to in Article 1, Paragraph 2, the Personnel have the right to:

1) Perform border control.

2) Conduct personal searches as well as inspect the contents of luggage and examine cargos and freight at sea and river ports and in means of air, highway, rail, and water transportation as well as freight at rail terminals, with the object of precluding the possibility of the perpetration of crimes and offenses, especially those directed against the inviolability of the state border of the safety of international traffic.

3) Issue visas and other permits to cross the state border on the basis of separate regulations.

4) Inspect identification cards or otherwise verify the identity of persons concerning whom there exists a justified suspicion that they have perpetrated a crime or an offense.

5) Detain persons attempting to perpetrate or perpetrating a crime, or persons whose identity cannot be established, and escort them to the watchtower or border control post of the Border Guard.

6) Conduct personal searches of individuals and inspections of articles, premises, and means of transportation, with the object of securing the traces and evidence of crime and protecting them against loss or obliteration.

7) Detain at the border and return to senders toxic radioactive materials, chemicals, and biological materials.

8) Sojourn in or traverse terrain without first obtaining the consent of its owners or users, and traverse arable land in the course of direct pursuit, also using trained pursuit dogs, if it is not possible to use roads.

9) Demand needed assistance in protecting the state border from state institutions, turn for such assistance to economic entities and social organizations, and in emergency cases turn to any citizen for assistance.

11.2. When detaining the persons referred to in Paragraph 1, Point 5, and when conducting the personal searches referred to in Paragraph 1, Point 6, the provisions of the Code of Criminal Proceedings apply. The related powers and obligations of Police personnel are correspondingly the powers and obligations of Border Guard personnel.

11.3. In connection with the conduct of pursuit of the perpetrators of crimes, the powers referred to in Paragraph 1, Points 4-6 also apply outside the border zone.

11.4. The Minister of Internal Affairs defines in an executive order the procedure for conducting the inspections referred to in Paragraph 1, Points 1 and 2.

11.5. For damage caused by the operations referred to in Paragraph 1, Point 8, compensation is due in accordance with civil law guidelines.

Article 12.1. The Commanding Officer of the Border Guard may, with the consent of the Minister of Internal Affairs, summon autonomous economic entities for implementing specialized tasks that complement the legal duties of the Border Guard.

12.2. On the recommendation of individuals or legal entities, Border Guard offices may consent to the gratis performance by Border Guard personnel of special assignments relating to their fields of expertise.

Article 13. While performing their service duties relating to the protection of the state border, Border Guard personnel may, in the area of the border zone, avail themselves gratis of state means of public transportation.

Article 14.1. When so required by considerations of national defense or of inviolability of the state border, the commanders of the floating units of the Border Guard cruising in the internal sea waters and the territorial sea waters have the right to:

1) Summon a ship to reduce its speed and stop for inspection as well as to follow a specified course.

2) Halt a ship, inspect its documents and bills of lading, verify the identity of the ship's crew and passengers, inspect the cargo and search the ship holds, and detain persons suspected of perpetrating crimes.

3) Force a ship to dock in a specified harbor, if its captain does not follow the instructions given.

14.2. Commanders of Border Guard vessels have the right to take the measures referred to in Paragraph 1 also when a ship, while in the internal sea waters or in territorial sea waters:

1) Embarks or disembarks people contrary to the regulations in force.

2) Loads or unloads cargo outside the place specified therefor.

3) Departs from a harbor without undergoing border clearance.

4) Establishes communication with the seacoast for criminal purposes.

5) Catches fish or otherwise exploits the waters and bottom of the sea contrary to the regulations in force.

6) Enters a zone temporarily closed to navigation and fishing.

7) Anchors outside the location assigned to it.

8) Violates the regulations governing the safety of navigation and transportation.

9) Violates sanitation or environmental protection regulations.

14.3. The powers referred to in Paragraphs 1 and 2 also apply when performing duties relating to the protection of the rights of the Republic of Poland within its exclusive economic zone whose status and scope are determined by separate regulations and international agreements.

Article 15. The powers referred to in Article 14, Paragraph 1, also belong to the commanders of Border Guard vessels with respect to ships crossing the territorial sea waters on whose deck a crime is committed during said crossing, if:

1) The consequences of the crime extend to the territory of the Republic of Poland.

2) The crime disturbs public order in the territorial sea waters.

3) This is required in order to combat illegal trafficking in narcotics or psychotropic substances.

4) The captain of the ship, the diplomatic representative, or the consular official of the country whose flag the ship carries, summons the aid of the commander of the Border Guard vessel.

Article 16.1. If there exists justifiable suspicion that, while cruising in the internal sea waters or in the territorial sea waters, a ship violates the regulations binding on the territory of the Republic of Poland, and if the ship attempts to escape when summoned to stop or

after being stopped, the commander of the Border Guard vessel may, in order to stop the ship, order its pursuit.

16.2. If the alien ship is located outside the state border at sea but within the Polish exclusive economic zone, its pursuit may be initiated only if the Polish laws binding in that zone are violated.

16.3. Pursuit at sea is conducted by vessels of the Border Guard as well as by aircraft performing duties relating to the protection of the state border.

Article 17.1. Before commencing the pursuit, visual and audio signals instructing the ship to halt should be transmitted at a distance sufficient for receiving these signals.

17.2. To stop ships, Border Guard vessels employ signals of the International Signals Code while at the same time firing, to attract a ship's attention, two green signal flares and turning on at night the two green masthead identification lights associated with the vessels protecting the state border. A signal for stopping ships used by aircraft is the firing of two green flares across the bow of the ship.

17.3. The pursuit commenced in Polish internal sea waters, in the Polish territorial waters, or in the Polish exclusive economic zone, may be continued outside the boundary of the territorial waters or that zone, on condition that it is not interrupted. Continuity of the pursuit should be preserved irrespective of whether it is conducted by vessels or in a coordinated manner by both vessels and aircraft.

17.4. An aircraft that summons a ship to stop pursues that ship until such time when a Border Guard vessel arrives to continue the pursuit.

17.5. With respect to ships stopped after they are pursued, the commander of the Border Guard vessel proceeds in accordance with the procedure defined in Article 14.

17.6. In every case that a ship is halted, two copies of a protocol should be drawn up in the Polish and English languages and signed by both parties, with one copy to be given to the ship's captain. The ship's captain may record in the protocol or separately his comments and reservations in any language whatsoever.

17.7. The right of pursuit ceases once the ship being pursued enters the territorial waters of another country.

Article 18.1. If a ship, although summoned, fails to stop and attempts to escape, the commander of the Border Guard vessel has the right to take the effective steps referred to in Article 25 in order to halt the ship.

18.2. Resorting to deck weapons by Border Guard vessels against a ship being pursued may take place solely in exceptional situations and as a last resort when other means prove inadequate to halt the ship or enforce obedience, but this should not be intended to sink the ship.

Article 19.1. Whenever the term "ship" is employed in this Law, it should be construed as a floating vessel referred to in the Maritime Law Code.

19.2. The procedure to be followed in Articles 14-18 with respect to warships is defined by separate regulations.

19.3. The Ministers of Internal Affairs and National Defense define the guidelines for the cooperation between the Border Guard and the Air Force and Air Defense Troops and the Navy as regards protecting the state border.

Article 20. The provisions of this Law do not infringe upon the rights of the warships of the Republic of Poland.

Article 21. In the event of loss of life by or impairment of health to persons who provide assistance to Border Guard personnel in the execution of their duties, or in the event of damage to the property of these persons, compensation is payable by the procedure and according to the guidelines defined in an executive order of the Minister of Internal Affairs.

#### **Chapter 4. Rights and Duties of the Air Force and Air Defense Troops**

Article 22.1. The protection of the state border in the airspace of the Republic of Poland is handled by the Air Force and Air Defense Troops in cooperation with other branches of the Armed Services subordinated to the Minister of National Defense and the Border Guard.

22.2. The Commanding Officer of the Air Force and Air Defense Troops is, insofar as protecting the state border in the airspace of the Republic of Poland is concerned, subordinated to the Minister of National Defense.

#### **Chapter 5. Using Means of Direct Coercion and Firearms**

Article 23.1. In the event of a threat to the inviolability of the state border or of failure to obey legally issued instructions, or in the event of a direct threat to the life and health of themselves or of others persons, Border Guard personnel may resort to the following means of direct coercion:

1) Physical and technical means serving to neutralize or escort individuals and halt vehicles.

2) Individual chemical neutralizing weapons.

3) Service dogs.

23.2. In the cases referred to in Paragraph 1 only the means of direct coercion corresponding to the existing situation and needed to achieve obedience to the instructions given may be employed.

Article 24.1. If the means of direct coercion referred to in Article 23, Paragraph 1, prove insufficient, Border Guard personnel have the right to use firearms:

1) With the object of resisting a direct, lawless assault against the life or health of oneself or other persons.

2) Against a person who, when summoned to immediately drop a weapon or a dangerous instrument, ignores the summons and behaves in a way indicating a direct intent to use a weapon or a dangerous instrument against another person.

3) Against a person who attempts violently to disarm or neutralize Border Guard personnel.

4) With the object of repulsing a direct assault against facilities serving national defense or important to the interests of the national economy.

5) While pursuing a person against whom using weapons is admissible in the situations referred to in Points 1-4, or if the person has committed a particularly dangerous crime and cannot be detained in any other manner.

6) With the object of foiling the escape of a previously detained and particularly dangerous criminal.

24.2. Using firearms should not be intended to cause loss of life; firearms should be used in a manner minimizing injuries to the person against whom they are used and so as to avoid exposing other persons to the hazard of loss of life or impairment of health.

24.3. The Council of Ministers defines in an executive order the conditions and procedure for using means of direct coercion, as well as the procedure for using firearms, by Border Guard personnel.

#### **Chapter 6. Using Means of Coercion With Respect to Seagoing Ships and to Aircraft**

Article 25.1. If a seagoing ship plying the internal sea waters or the territorial waters ignores a summons to stop and fails to cease activities violating the regulations governing these waters, the commander of the Border Guard vessel may issue the order to fire a warning shot into the air, and subsequently a shot across the bow and another across the stern of the ship. If the ship still continues to ignore the summons, the commander of the vessel may order opening fire at that ship. The same procedure is followed during pursuit on high sea.

25.2. In the event that a Border Guard vessel is being fired at, retaliatory fire may be opened without warning.

Article 26.1. All aircraft in the airspace of the Republic of Poland are obligated to obey the instructions transmitted by the commander of the military aircraft operating as part of the state's air defense system.

26.2. The commander of the military aircraft operating as part of the state's air defense system transmits to the foreign aircraft instructions by means of onboard radio communications on the international danger frequency or by means of optical signals specified in international agreements.

Article 27.1. If a civilian aircraft crossing the state border without official permission or moving in the

airspace of the Republic of Poland in violation of the terms of its official permission fails to obey the instructions of the air controller, it may be ordered by the commander of a military aircraft operating as part of the air defense system to depart the airspace of the Republic of Poland or to change course, or it may be forced to land on a specified airfield.

27.2. When forced to land, the civilian aircraft, its crew, and its passengers are transferred by the airfield operating services to the disposition of the Border Guard or other proper agencies.

Article 28. The Minister of National Defense defines the procedure for the Air Force and Air Defense Troops in case of foreign, civilian, and military aircraft, including pilotless aircraft, which cross the state border without official permission.

#### **Chapter 7. Flag and Identifying Signs**

Article 29. Border Guard vessels raise the state flag bearing the national emblem of the Republic of Poland as defined in separate regulations.

Article 30.1. While executing their duties as specified in this Law the Border Guard vessels raise, irrespective of the national flag, the Border Guard flag.

30.2. The Minister of Internal Affairs shall specify the appearance of the Border Guard flag, the circumstances and conditions for raising it, and the identifying marks that should be carried by vessels and aircraft as well as their nocturnal identifying signs.

#### **Chapter 8. Service in the Border Guard**

Article 31. Service in the Border Guard may be performed by any Polish citizen who demonstrates an impeccable moral and patriotic attitude, is fully entitled to civil rights, has at least a secondary educational background and specified occupational or professional qualifications, and is physically and mentally fit for service in armed formations obeying a particular service discipline, to which he is ready to subordinate himself.

Article 32.1. Physical and mental fitness for service is determined by medical commissions subordinated to the Minister of Internal Affairs.

32.2. The Minister of Internal Affairs defines in an executive order the guidelines for evaluating physical and mental fitness for service as well as the procedure for issuing the related rulings and the competences and procedural rules of medical commissions in these matters.

Article 33.1. Before commencing to serve, the Border Guardsman swears the following oath:

"I, a citizen of the Republic of Poland, being conscious of the duties of a Border Guardsman that I am about to assume, solemnly swear to serve faithfully the Polish nation, always bearing in mind the interests of the Polish State.

"I swear to inflexibly stand watch over the independence and sovereignty and guard the inviolability of the state border of the Republic of Poland, even at the risk of my own life.

"I swear to closely adhere to the principles of the Constitution of the Republic of Poland and the binding legal order and to execute sacrificially and conscientiously the duties assigned to me, to obey the service discipline, to execute the orders and instructions of my superiors, to respect the secrecy of classified state and service information, to guard the good name of the service and its honor and dignity, and also to adhere to the ethical principles of conduct of Border Guard personnel."

33.2. The oath-swearing ceremony is determined by the Minister of Internal Affairs.

#### Chapter 9. Course of the Service

Article 34.1. The service relationship of Border Guard personnel is based on appointment to a post subsequent to voluntary application for admission to the service.

34.2. The commencement of service is reckoned from the day specified in the order appointing the Border Guardsman.

34.3. The appointment may be made following the performance of basic military service or following transfer to the reserves.

34.4. The requirement of Paragraph 3 does not apply to women, personnel assigned to candidate service with the consent of military agencies, or persons commencing their studies or professional retraining at the Border Guard Training Center.

34.5. The Minister of Internal Affairs defines in an executive order the kinds and models of official identification cards and other documents of Border Guard personnel, the offices proper for issuing them, and the guidelines for making entries in these documents.

Article 35.1. An applicant for admission to the Border Guard is appointed to trainee rank for a period of three years.

35.2. Following the elapse of the above period the trainee is promoted to a regular appointment.

35.3. In cases warranted by special qualifications of the applicant the Commanding Officer of the Border Guard may, upon the recommendation of the commander of a Border Guard unit, shorten the period of his trainee service or exempt him from that service.

35.4. In the event of a hiatus of more than three months in the performance of duties by a Border Guardsman, the Commanding Officer of the Border Guard may, on the recommendation of the commander of the Border Guard unit, extend the duration of his trainee period.

Article 36.1. The following superiors are authorized to appoint, transfer, and discharge Border Guard personnel: the Commanding Officer of the Border Guard and the commanders of Border Guard units.

36.2. Border Guard personnel may appeal the decisions referred to in Paragraph 1 to a higher superior, with the exception of claims filed with the courts.

36.3. If the decisions referred to in Paragraph 1 are arrogated to the Commanding Officer of the Border Guard, such decisions may be appealed to the Minister of Internal Affairs.

Article 37.1. The duration of service of Border Guard personnel is defined by the extent of their duties, with allowance for the right to rest.

37.2. The service schedule is determined by the Commanding Officer of the Border Guard.

Article 38. The Commanding Officer of the Border Guard defines the educational and professional requirements that must be met by Border Guard personnel serving in specified posts.

Article 39.1. Border Guard personnel are subject to periodic fitness ratings.

39.2. Border Guard personnel are notified of their fitness ratings within 14 days from the date of their preparation, and they may within 14 subsequent days appeal negative ratings to their higher superiors.

39.3. The guidelines for the periodic fitness ratings of Border Guard personnel and the procedure for submitting and considering appeals against these ratings are defined by the Commanding Officer of the Border Guard.

Article 40.1. Border Guard personnel may be transferred for service or assigned for a temporary period of up to six months to another locality, ex officio or upon their own request.

40.2. The persons proper for ordering the transfer or temporary assignment of Border Guard personnel are:

1) The Commanding Officer of the Border Guard for the country as a whole.

2) The commander of a Border Guard unit for the territory on which his unit operates.

Article 41.1. Border Guard personnel may be asked to perform duties at other than their regular posts for a period of not more than 12 months. In such cases their salaries may not be reduced.

41.2. Border Guard personnel may be temporarily assigned for duties outside the jurisdiction of the ministry of internal affairs. The requirements and procedure



for such temporary assignment along with the attendant salaries and other benefits are defined by the Commanding Officer of the Border Guard.

Article 42.1. Border Guard personnel are transferred to a lower-ranking post in the event they are subjected to the disciplinary penalty of demotion.

42.2. Border Guard personnel may be transferred to a lower-ranking position in the event of:

1) A ruling by a medical commission that there is permanent inability to perform service in the position held, if an appointment to an equivalent position is not feasible.

2) Unsuitability for the position held, as established in a fitness rating prepared during the period of trainee service.

3) Failure to perform the duties associated with the position held, as established during regular service in two successive fitness ratings separated by a period of at least six months.

4) Abolition of the position held, if appointment to an equivalent position is not feasible.

42.3. Border Guard personnel may also be transferred to a lower-ranking position at their own request.

42.4. Border Guard personnel who do not consent to being transferred to a lower-ranking position for the reasons referred to in Paragraph 2 may be discharged from service.

Article 43.1. Border Guard personnel are suspended from duty for a period of not more than three months in the event that they are subjected to criminal proceedings concerning indictment for a premeditated crime.

43.2. Border Guard personnel may be suspended from duty for a period of not more than three months in the event that they are subjected to criminal proceedings concerning indictment for an unpremeditated crime, or to disciplinary proceedings if the latter are indicated by the good of the proceedings or for the good of the service.

43.3. In particularly warranted cases the period of suspension from duty may be extended to 12 months.

43.4. The Minister of Internal Affairs defines the procedure for the suspension of Border Guard personnel from duty by their superiors.

Article 44. Border Guard personnel may be directed ex officio or on their personal request to be examined by a medical commission under the jurisdiction of the Minister of Internal Affairs with the object of determining their health, their physical and mental fitness for service, and the service-connected, if any, nature of their illnesses.

Article 45.1. Border Guard personnel are discharged from service in the event of:

1) A ruling of permanent disability issued by a medical commission.

2) Unsuitability for service, as established by a fitness rating during the period of trainee service.

3) Imposition of the disciplinary penalty of expulsion from service.

4) Sentencing by a legal judicial verdict for a premeditated crime.

45.2. Border Guard personnel may be discharged from service in the event of:

1) Failure to perform duties while in regular service, as established in two successive fitness ratings separated by a period of at least six months.

2) Sentencing by a legal judicial verdict for a crime other than that referred to in Paragraph 1, Point 4.

3) Appointment to another government service or the assumption of an elected office in a local government or an association.

4) Earning the right to retirement with a pension upon completing 30 years of service.

5) When so required by important Service interests.

6) Withholding of consent to transfer to a lower-ranking post.

45.3. Border Guard personnel are discharged from service within a period of up to three months from the date of their submission of a letter of resignation.

Article 46. In the event of a waiver of a legal judicial sentencing verdict or of a legal ruling in favor of a conditional quashing of criminal proceedings and a verdict of acquittal, or a ruling to quash criminal proceedings, or in the event of a waiver of the disciplinary penalty of demotion to a lower-ranking post or of the penalty of expulsion from the Service—the consequences to the Border Guard personnel in connection with the demotion to a lower-ranking post or to a lower rank also are waived. As for waiving other consequences, that is decided by the Commanding Officer of the Border Guard.

Article 47.1. Border Guard personnel may not be discharged from service prior to the elapse of 12 months since the date of illness-caused cessation of service, unless they themselves request an earlier discharge.

47.2. The discharge of Border Guard personnel from service pursuant to Article 45, Paragraph 1, Points 3 and 4, and Paragraph 2, Point 2, may not occur prior to the elapse of three months from the date of illness-caused cessation of service, unless they themselves request an earlier discharge.

47.3. The discharge of Border Guard personnel from service pursuant to Article 45, Paragraph 2, Point 5, may occur upon consulting the trade union of Border Guard personnel.

Article 48.1. Female Border Guard personnel may not be discharged from service while pregnant or on maternity leave, with the exception of cases referred to in Article 45, Paragraph 1, Point 3, and Paragraph 2, Points 2, 3, and 5.

48.2. In the event of the discharge of female Border Guard personnel pursuant to Article 45, Paragraph 2, Point 5, they are entitled to receive their salaries until the expiration date of their maternity leaves.

Article 49. Border Guard personnel are discharged from service by the Commanding Officer of the Border Guard.

Article 50.1. Border Guard personnel who are discharged from service are immediately provided with a discharge certificate and, upon their request, a copy of their fitness rating.

50.2. Border Guard personnel may request rectification of their discharge certificate and appeal their fitness rating to their senior official within seven days from the date of receipt of the fitness rating.

50.3. The specific data to be provided in the discharge certificate and in the fitness rating, as well as the procedure for issuing and rectifying discharge certificates and appealing fitness ratings, are determined by the Minister of Internal Affairs.

#### **Chapter 10. Corps and Ranks of Border Guard Personnel**

Article 51. The corps and ranks binding within the Border Guard are identical with military corps and ranks.

Article 52.1. The basic rank to which a Border Guardsman is appointed is that of a private.

52.2. Superiors authorized to make personnel decisions make the appointments to the rank of Border Guard privates and noncommissioned officers.

Article 53.1. Appointments to the rank of Border Guard ensign are made by the Minister of Internal Affairs or by a senior official so empowered by him.

53.2. Appointments to the rank of junior Border Guard officer and to the rank of Border Guard general are made by the President of the Republic of Poland on the recommendation of the Minister of Internal Affairs. Appointments to other officer ranks in the Border Guard are made by the Minister of Internal Affairs.

Article 54.1. Appointments to noncommissioned officer and ensign ranks in the Border Guard are dependent on a positive fitness rating and on the service post held. In addition, appointments to the rank of:

1) Junior noncommissioned officer, are dependent on the completion of the noncommissioned officers school.

2) Junior ensign, are dependent on the completion of the ensign school.

54.2. In particularly warranted cases Border Guard personnel may be appointed to the rank of junior noncommissioned officer or junior ensign despite failure to meet the requirements referred to in Paragraph 1, Points 1 and 2.

Article 55.1. A person with a higher educational background and specialized training may be appointed to the junior officer rank.

55.2. The Minister of Internal Affairs specifies the requirements for the specialized training referred to in Paragraph 1.

Article 56. Appointments to the next higher rank are made in accordance with the service post held, the professional qualifications held, and depending on the fitness rating. However, such appointments may not be made until after one serves in one's previous rank for the following periods:

corporal—1 year  
senior corporal—1 year  
platoon leader—2 years  
sergeant—2 years  
senior sergeant—3 years  
staff sergeant—3 years  
junior ensign—3 years  
ensign—4 years  
senior ensign—5 years  
staff ensign—5 years  
junior lieutenant—3 years  
lieutenant—4 years  
captain—5 years  
major—4 years  
lieutenant colonel—4 years.

Article 57.1. In cases warranting special consideration Border Guard personnel with a positive fitness rating and special professional qualifications or ability to perform service in a corresponding post may be promoted to a higher rank despite the failure to meet other requirements for appointment to that rank or prior to the expiration of the specified time limits.

57.2. Border Guard personnel who are discharged for service may be promoted to next higher rank as a reward for special contributions to protecting the state border.

Article 58.1. Noncommissioned officer, ensign, officer, and general ranks are for life.

58.2. Border Guard personnel who are discharged from service may use the ranks referred to in Articles 52 and 53 upon adding the qualification:

1) "In reserve" if the personnel are subject to the duty of military service and are deemed fit for that service.

2) "Retired" if the personnel are not subject to the duty of military service.

58.3. Forfeiture of the rank referred to in Articles 52 and 53 takes place in the event of:

1) Forfeiture of Polish citizenship, or

2) Sentencing by a legal judicial verdict to the additional penalty of loss of civil rights, or

3) Sentencing by a valid judicial verdict to imprisonment for a crime committed out of base motives.

Article 59. The forfeiture or demotion of rank is, with the exception of the cases referred to in Article 58, Paragraph 3, decided upon by the senior official empowered to make appointments to that rank. Forfeiture of the rank of junior lieutenant is decided upon by the Minister of Internal Affairs, and forfeiture of the rank of general is decided upon by the President of the Republic of Poland on the recommendation of the Minister of Internal Affairs.

Article 60.1. Border Guard personnel have their ranks restored in the event of a waiver of:

1) Legal judicial sentencing to the additional penalty of forfeiture of civil rights, or

2) Legal judicial sentencing to imprisonment for a crime committed out of base motives, or

3) The decision on whose basis the rank was forfeited, or

4) The disciplinary penalty of demotion in rank.

60.2. The restoration of rank is decided upon by the senior official empowered to make appointments to that rank; the restoration of the rank of junior lieutenant in the Border Guard is decided upon by the Minister of Internal Affairs, while the rank of general of the Border Guard is restored by the President of the Republic of Poland on the recommendation of the Minister of Internal Affairs.

Article 61.1. A person accepted in the service and having a military or police rank is appointed to an equivalent Border Guard rank.

61.2. When accepting into the service a person who has the military rank of a junior lieutenant or the police rank of an assistant commissioner, the appointment to the rank of a junior lieutenant in the Border Guard is made by the Minister of Internal Affairs.

Article 62. The Minister of Internal Affairs defines the specific procedure for making appointments to Border Guard ranks.

#### **Chapter 11. Rights and Duties of Border Guard Personnel**

Article 63.1. Border Guard personnel are obligated to adhere to the duties ensuing from the oath sworn.

63.2. Border Guard personnel are obligated to refuse obeying an order or an instruction that would entail committing a crime.

63.3. Border Guard personnel should notify the Commanding Officer of the Border Guard, on bypassing the regular channels, of his refusal to obey the order or instruction referred to in Paragraph 2.

Article 64.1. The senior official of the Border Guardsman who is unable to implement within the designated time limit or scope the recommendations of the court of law or the public prosecutor referred to in Article 9, Paragraph 1, is dutybound to file a request for an extension of the time limit or for a revision or waiver of the recommendations.

64.2. In the event of unjustified failure to implement the recommendations within the designated time limit or scope, the senior official of the Border Guardsman institutes, when so demanded by the court or the public prosecutor, disciplinary proceedings against him. The court of law or the public prosecutor, as the case may be, is notified about the outcome of these proceedings.

Article 65.1. Border Guard personnel receive free uniforms and appurtenances.

65.2. Border Guard personnel wear military-style uniforms. They wear a green-banded round garrison cap and, on the right-hand sleeve of their uniforms, the Border Guard emblem.

65.3. Border Guard personnel wear orders, decorations, and badges in accordance with the rules binding in the Polish Army.

65.4. The amount of and requirements for granting the financial equivalent in lieu of a uniform are determined by the Minister of Internal Affairs in consultation with the Minister of Finance.

65.5. A Border Guardsman appointed for the period of trainee service returns, if discharged, the uniform he had received, if its period of depreciation does not expire, or a corresponding part of the financial equivalent.

65.6. While in active service Border Guard personnel are dutybound to wear the prescribed uniforms and appurtenances.

65.7. The Commanding Officer of the Border Guard defines the cases in which Border Guard personnel are not obligated to wear uniforms while on duty.

65.8. The Commanding Officer of the Border Guard may introduce specialized uniforms suited to the conditions in which duties are performed.

65.9. The Minister of Internal Affairs determines the models of uniforms, badges, and insignia, and the related standards.

Article 66. While on duty, nonuniformed Border Guard personnel are dutybound to show, on demand of citizens, their official identification cards in a manner enabling the interested party to read and note the card number, the name of the issuing agency, and the name of the Border Guardsman.

Article 67. Border Guard personnel may not accept gainful employment during their off-duty hours without the permission of their official superiors.

Article 68.1. Border Guard personnel may not be members of political parties.

68.2. Once a person is accepted into the Border Guard, his membership in a political party is discontinued.

68.3. Border Guard personnel are dutybound to advise their official superiors about their membership in non-service-connected domestic associations.

68.4. Membership in foreign or international organizations or associations requires permission from the Minister of Internal Affairs or from a senior official whom he so empowers.

Article 69. Border Guard personnel are duty bound to notify their immediate superiors about any planned trips abroad.

Article 70.1. Border Guard personnel who are discharged from service under Article 45, Paragraph 1, Point 3 or 4, or Paragraph 2, Point 2 or 3, before the elapse of 10 years from the date of the completion of studies at a higher educational institution, whether under or not under the jurisdiction of the Minister of Internal Affairs so long as the cost of attending it was sponsored financially by the Ministry of Internal Affairs, are obligated to reimburse the ministry with the updated financial equivalent of the cost of the meals and uniforms with appurtenances received while attending that institution.

70.2. The Minister of Internal Affairs determines the cost referred to in Paragraph 1, the guidelines for its reimbursement, and instances of exemptions from the obligation of reimbursement.

Article 71. In connection with the performance of their duties Border Guard personnel are entitled to the protection provided in the Criminal Law Code for civil service personnel.

Article 72.1. Border Guard personnel may associate themselves in the trade union of Border Guard personnel.

72.2. The provisions of the law on trade unions apply correspondingly, with the proviso that only one trade union may be active within the Border Guard and has no right to declare a strike.

72.3. Specific guidelines for the cooperation between the trade union of Border Guard personnel and the Minister

of Internal Affairs and the Commanding Officer of the Border Guard shall be defined in the court-registered statute of that trade union.

Article 73. Border Guard personnel who sustain service-connected impairment of health or damage to property receive compensation by the procedure and according to the guidelines defined for police personnel. In the event of the service-connected death of Border Guard personnel, the compensation is paid to their surviving family members.

Article 74.1. After 15 years of service Border Guard personnel are entitled to the equivalent of police retirement benefits.

74.2. Regular Border Guard personnel serving in watch-towers or at border control posts or as crew members on Border Guard vessels have each year of service credited as equal to 1 1/2 years of the seniority needed to become eligible for retirement benefits.

74.3. Disabled Border Guard personnel are entitled to receive the equivalent of police disability pensions.

74.4. Surviving family members of deceased Border Guard personnel are eligible to receive the family pension.

74.5. The guidelines for granting the benefits referred to in Paragraphs 1-4 are defined in the regulations governing the retirement benefits of Police personnel and their families.

Article 75.1. Border Guard personnel receive arms and special equipment.

75.2. The Minister of Internal Affairs defines the standards for arming Border Guard personnel.

75.3. The Commanding Officer of the Border Guard determines the guidelines for issuing and using special equipment.

Article 76. The Minister of Internal Affairs defines cases in which Border Guard personnel receive meals and the related standards. Cases in which the financial equivalent of meals is disbursed instead are defined by the Minister of Internal Affairs in consultation with the Minister of Finance.

Article 77.1. Border Guard personnel and their family members are eligible for a gratis roundtrip to a selected locality in this country by state means of transportation once a year, on terms determined by the Minister of Internal Affairs.

77.2. In the event of failure to avail himself of the free roundtrip, the Border Guardsman is paid a lump-sum financial equivalent on terms determined by the Minister of Internal Affairs.

77.3. Persons referred to in Paragraph 1 may also be granted other benefits and social services, whose nature

and scope are determined by the Minister of Internal Affairs in consultation with the Minister of Labor and Social Policy.

Article 78. Border Guard personnel and their spouses are eligible for discounts in the price of travel by state means of transportation to the extent and on the terms determined in an executive order of the Minister of Transportation and Navigation in consultation with the Minister of Internal Affairs.

Article 79.1. Border Guard personnel and their family members are eligible for gratis treatment by the health service of the Ministry of Internal Affairs.

79.2. Border Guard personnel and their family members may also avail themselves of gratis treatment by the medical establishments of the public health service to the extent and on the terms defined in an executive order of the Ministers of Health and Social Welfare and of Internal Affairs, or for medical treatment by other health service institutions on terms determined by the Minister of Internal Affairs in consultation with the concerned ministers.

79.3. The benefits referred to in Paragraphs 1 and 2 also apply to persons authorized to receive retirement pensions, in accordance with the guidelines defined in the regulations governing the retirement benefits of Police personnel and their families or the retirement benefits of professional military personnel and their families.

Article 80.1. Border Guard personnel who are eligible for a police or military pension for a nonservice-connected disability, as well as eligible members of their families, and also persons eligible for receiving death benefits after Border Guard personnel whose deaths are not service connected, are eligible for free medical treatment by the institutions of the public health service.

80.2. Border Guard personnel who have been discharged from service without being eligible for the retirement benefits governed by the appropriate regulations concerning Police personnel and their families, or for the retirement benefits due professional military personnel, are, along with their family members, eligible for treatment by the institutions of the public health service to the extent and on the terms envisaged for employees with whom the labor relationship has been terminated.

Article 81. The family members of Border Guard personnel considered eligible for the benefits referred to in Articles 77, 79, and 80, are the spouse and the children who are eligible for the family allowance.

Article 82. The period of service of Border Guard personnel is interpreted as work of a special nature as construed by the regulations governing the retirement benefits of employees and their families.

Article 83. Female Border Guard personnel are entitled to the special rights reserved for female employees by the Labor Law Code, unless the provisions of the present Law specify otherwise.

Article 84.1. For Border Guard personnel who accept employment within one year from the date of their discharge from the Service—or within three years from the date of their discharge from the trainee period of service—the length of service is credited to their work seniority record as regards any and all rights ensuing from the Labor Law Code.

84.2. The provision of Paragraph 1 does not apply if the provisions of the Labor Law Code specify that the expiration of the periods of time referred to in Paragraph 1 is no obstacle to the eligibility of an employee for particular benefits.

84.3. Those Border Guard personnel who cannot accept employment within the time period referred to in Paragraph 1 owing to an illness causing a work disability or a handicap, retain the rights referred to in Paragraph 1 in the event that they accept employment within three months from the date their work disability or handicap ceases to exist.

84.4. The provisions of Paragraphs 1 and 2 do not apply to Border Guard personnel who are discharged from duty in the event that they are sentenced by a legal judicial verdict or punished by the disciplinary penalty of expulsion from the service.

Article 85. The Minister of Internal Affairs specifies, within the limits defined in the present Law, the manner and course of service and the rights and duties of Border Guard personnel.

Article 86.1. Border Guard personnel are entitled to a paid annual vacation leave of 30 calendar days.

86.2. Border Guard personnel gain the right to the first leave after one year of service.

Article 87.1. Important Service considerations may warrant recalling a Border Guardsman from his vacation leave or suspend his leave entirely or partially. The date of the leave also may be postponed upon the request of the Guardsman if motivated by important considerations.

87.2. A Border Guardsman who is recalled from his leave is entitled to reimbursement of the traveling expenses occasioned by the recall, in accordance with the norms specified in the regulations governing service compensation for transfers or temporary assignments, as well as to reimbursement of other expenses, as defined by the Minister of Internal Affairs.

87.3. The recall of a Border Guardsman from his leave owing to service considerations requires the approval of his superior.

87.4. Border Guard personnel who do not avail themselves of their right to a leave in a given calendar year should be granted a leave within the first three months of the following year.

Article 88. The Minister of Internal Affairs may grant additional paid annual leaves of up to 15 calendar days for those Border Guard personnel who serve under particularly arduous and noxious conditions or who have reached a particular age or length of work seniority, or when so warranted by particular aspects of their service.

Article 89. Border Guard personnel may be granted a paid health or circumstantial leave, as well as an unpaid leave for important reasons.

Article 90. The Minister of Internal Affairs defines, in consultation with the Minister of Labor and Social Policy, the detailed guidelines for granting leaves to Border Guard personnel, the related operating procedure, and the extent of the leaves referred to in Articles 88 and 89.

Article 91. Border Guard personnel who perform their duties in a model manner, display initiative on duty, and improve their professional qualifications, may be awarded the following distinctions:

- 1) A commendation.
- 2) A commendation in a written order.
- 3) A financial or material award.
- 4) A short-term leave.
- 5) A Ministry badge of distinction.
- 6) Presentation for a State decoration.
- 7) Preterm promotion to a higher rank.
- 8) Promotion to a higher service position.

#### Chapter 12. Housing for Border Guard Personnel

Article 92.1. Regular Border Guard personnel have the right to housing in the localities in which they serve or in nearby localities, with allowance for the number of their family members and for their rights as ensuing from separate regulations.

92.2. Trainee Border Guard personnel may be allocated temporary billets.

Article 93. The family members of Border Guard personnel who enter into consideration when allocating housing are those living in the same households with Border Guard personnel, namely:

- 1) Spouse.
- 2) The children (natural, adopted, or foster) being supported by the Border Guardsman, provided that they have not reached the age of 25.
- 3) The parents of the Border Guardsman and his spouse, to whom he is the sole source of support, or if, owing to age or disability or other circumstances, they

are not able-bodied; the stepfather and stepmother as well as adoptive parents also are considered as parents.

Article 94. Housing for Border Guard personnel comes from the housing stock available to the Minister of Internal Affairs or to the agencies under his jurisdiction, as obtained owing to their investment activities or from local offices of the government administration, offices of the local governments, or workplaces; this also means the housing vacated by persons to whom it had been allotted by agencies under the jurisdiction of the Minister of Internal Affairs.

Article 95.1. Border Guard personnel also are entitled to a financial equivalent for the renovation of the housing they occupy, with allowance for the number of family members and for their rights as ensuing from separate regulations.

95.2. The detailed guidelines for the payment of the equivalent referred to in Paragraph 1, and the amount of that equivalent, are defined by the Minister of Internal Affairs in consultation with the Minister of Finance.

Article 96.1. Border Guard personnel are entitled to a financial equivalent if they themselves or their family members have no housing in the locality in which they perform their service or in a nearby locality.

96.2. The amount and guidelines for the granting and payment of the financial equivalent referred to in Paragraph 1 are defined by the Minister of Internal Affairs in consultation with the Minister of Finance.

Article 97. Border Guard personnel who occupy housing in a locality close to the locality in which they serve are entitled to compensation for the cost of commuting to and from work in the amount of the price of the train or bus tickets.

Article 98.1. Border Guard personnel who fail to receive housing on the basis of an administrative allotment decision are eligible for financial assistance in obtaining housing in a housing cooperative, or in obtaining a single-family house or a dwelling constituting a separate parcel of real estate.

98.2. The Minister of Internal Affairs defines the guidelines for and amount of the financial assistance referred to in Paragraph 1.

Article 99. Allotments of housing based on administrative decisions do not apply to Border Guard personnel:

- 1) In the event that they avail themselves of financial assistance from a housing fund.
- 2) Who own in the locality in which they serve, or in a nearby locality, housing whose dwelling area at least corresponds in size to the area they are eligible for, or who own there a single-family house or a boarding home.
- 3) Whose spouses own the dwellings, houses, or homes referred to in Paragraph 2.

4) In the event that they or their spouses sell their titles to a cooperative dwelling constituting a separate piece of real estate, or to the house or home referred to in Paragraph 2, with the exception of the instances referred to in Article 100, Paragraph 3.

Article 100.1. Border Guard personnel who are transferred for service in another locality, and who own at the previous locale of service a dwelling, a single-family house, or a boarding home, may be allotted housing at the new locale of service, on the basis of an administrative decision, if they:

- 1) Vacate the occupied dwelling or house, or
- 2) Refund the financial assistance granted for:

a) Making a downpayment to the housing cooperative, in an amount whose value is updated by the cooperative.

b) Paying other fees, in the amount granted.

100.2. Border Guard personnel who availed themselves of financial assistance from a housing fund may be allocated dwellings by an administrative decision if they vacate the dwelling or house referred to in Paragraph 1 and refund the financial assistance in accordance with the provisions of that Paragraph.

100.3. The procedure for allocating housing in the cases referred to in Paragraphs 1 and 2, the guidelines for refunding financial assistance, and the guidelines for vacating the occupied dwellings or houses referred to in Paragraph 1 are defined by the Minister of Internal Affairs.

100.4. Border Guard personnel transferred for service in another locality who fail to vacate the dwellings or houses referred to in Paragraph 1 which they had occupied in the previous locale of their service may be allocated temporary quarters in accordance with the applicable norms but without taking into consideration the needs of the members of their households.

100.5. A Border Guardsman on temporary assignment in another locality is assigned temporary quarters whose cost is defrayed from Border Guard funds.

Article 101.1. The Minister of Internal Affairs defines, in consultation with the Minister of Land Use Management and Construction, the detailed guidelines for the allocation and vacating of the housing referred to in Article 94, as well as the dwelling-area size per person, and also the detailed guidelines for the allocation and vacating of temporary billets.

101.2. The Minister of Internal Affairs defines, in consultation with the Minister of Land Use Management and Construction and the Minister of Finance, the amount of the rent to be charged for occupying the housing administered by agencies under the jurisdiction

of the Minister of Internal Affairs as well as the guidelines for refunding rental fee differences for other housing for which Border Guard personnel are obligated to pay rent.

101.3. Extra dwelling-area allotments determined pursuant to Paragraph 1, as linked to the service position or rank held, also apply to the allocation of housing other than that referred to in Article 94 to Border Guard personnel.

Article 102. Border Guard personnel who are discharged from duty and lack the right to housing on the terms defined in the regulations governing the retirement rights of Police personnel and their families or of the professional military personnel and their families, retain the right to the allocated housing in accordance with the generally binding norms, or may be relocated to substitute housing.

### Chapter 13. Emoluments and Other Financial Benefits of Border Guard Personnel

Article 103.1. The right to receive a salary is acquired on the day a Border Guardsman is appointed to a service position.

103.2. By virtue of his service the Border Guardsman receives a single salary plus other financial benefits defined in the present Law, exempt from the wage tax.

103.3. The emoluments of Border Guard personnel are increased to an extent that is not smaller than the growth of the average wage in manufacturing.

103.4. The Council of Ministers determines each year the amount of the funds to be earmarked for raising the emoluments of Border Guard personnel.

Article 104. The emoluments of Border Guard personnel consist of a base salary plus salary allowances.

Article 105.1. The Minister of Internal Affairs, in consultation with the Minister of Labor and Social Policy, fixes the amount of the base salaries paid in typical service positions as well as the increases in base salaries owing to work seniority.

105.2. The Minister of Internal Affairs defines the base salary rates for nontypical positions, within the bounds of the rates fixed for typical positions.

Article 106. The Minister of Internal Affairs defines the guidelines and procedure for crediting periods of service and work to the work seniority reckoned when calculating the increase in base salaries.

Article 107.1. Border Guard personnel who are transferred to a service position ranked in a lower base salary category than that received while in the previous position retain the right to receive the salary received in the previous position until they are promoted to a higher salary category.

107.2. In particularly warranted cases the Minister of Internal Affairs may permit a Border Guardsman transferred to a service position ranked in a lower base salary category the right to remain ranked in his previous base salary category and to retain the service rank associated with that category.

107.3. The provisions of Paragraph 1 do not apply to the personnel transferred to a lower-ranking position pursuant to Article 42, Paragraph 1, or Paragraph 2, Point 2 or 3, as well as to the personnel transferred at their own request.

Article 108. Border Guard personnel receive the following salary allowances:

- 1) Rank allowance.
- 2) Service allowance.
- 3) Allowances warranted by special properties, qualities, conditions, or locale of service.
- 4) Family allowance.

108.2. Regular salary allowances are the allowances included in the monthly salary payments.

108.3. Detailed guidelines for eligibility for the salary allowances referred to in Paragraph 1 and their amounts are determined by the Minister of Internal Affairs in consultation with the Minister of Labor and Social Policy.

Article 109. The base salary and the regular salary allowances are paid in advance once a month. The Minister of Internal Affairs may specify which regular allowances are not payable in advance.

Article 110.1. A change in salary occurs on the day on which circumstances warranting that change arise.

110.2. If the right to a salary is acquired, or if the change in salary takes place, in the course of, rather than at the beginning of, a month the salary due until the month's end is reckoned in the amount of one-thirtieth of the monthly salary for each day remaining until the month's end, unless regulations specify otherwise.

110.3. The right to a salary expires on the last day of the month in which a Border Guardsman is discharged from service or other circumstances warranting the expiration of that right arise.

Article 111.1. Claims relating to the right to a salary and to other benefits and arrears in payment forfeit their validity upon the expiration of three years from the day on which the claims may be submitted.

111.2. The office proper for considering the claims may ignore the abovementioned time limit if the delay in investigating a claim is warranted by exceptional circumstances.

111.3. The time limit for the expiration of claims concerning salaries and other benefits as well as arrears in payments is suspended by:

- 1) Any actions taken before the head of the organizational unit proper for considering the claims, under the jurisdiction of the Ministry of Internal Affairs, when such action is taken directly in order to investigate or determine or satisfy the claim.

- 2) The acknowledgment of the claim.

Article 112.1. Border Guard personnel are entitled to the following financial benefits:

- 1) Relocation benefits.
- 2) Annual awards.
- 3) Anniversary awards.
- 4) Extra pay for performing assignments above and beyond the call of duty.
- 5) Compensation for official trips and transfers.
- 6) Benefits connected with discharge from service.

112.2. In the event of the demise of a Border Guardsman or his family member, the following benefits apply:

- 1) Funeral allowance.
- 2) Death benefits.

112.3. Border Guard personnel are eligible for awards and financial assistance.

Article 113. Border Guard personnel appointed to regular service are entitled to a relocation allowance equal to one month's base pay, along with the regular allowances due on the day of the appointment to regular service.

Article 114.1. Border Guard personnel may be granted awards and financial assistance in the amounts and on the terms defined by the Ministry of Internal Affairs.

114.2. The size of the funds for awards and financial assistance for Border Guard personnel is determined by the Council of Ministers.

Article 115. The Council of Ministers defines the guidelines for granting to Border Guard personnel anniversary awards.

Article 116.1. For performing assignments above and beyond the call of duty, Border Guard personnel may be awarded extra pay on terms defined by the Minister of Internal Affairs.

116.2. Awards for the inventions, technological improvements, and efficiency improvements devised by Border Guard personnel are governed by separate regulations.



Article 117. In the event of an official transfer or a temporary assignment to another locality, Border Guard personnel are entitled to compensation for official trips throughout this country as well as for relocation expenses in the amounts and on the terms defined by the Minister of Internal Affairs in consultation with the Minister of Labor and Social Policy.

Article 118.1. Border Guard personnel who are discharged from service pursuant to Article 42, Paragraph 4, or Article 45, Paragraph 1, Point 1 or 2, or Paragraph 2, Point 1 or 3-5, or Paragraph 3, receive:

- 1) Severance pay.
- 2) The financial equivalent of the unused leave for the year of discharge from service as well as for previous unused leaves.
- 3) A lump-sum financial equivalent of traveling expenses for the given year, from the funds of the Ministry of Internal Affairs.
- 4) Reimbursement of the cost of relocation to a selected domicile for oneself, spouse, and children in the household, as well as reimbursement of the cost of moving household chattels in accordance with the guidelines binding for official relocations.

118.2. Border Guard personnel discharged pursuant to Article 45, Paragraph 1, Point 3, receive 50-percent severance pay plus the financial equivalent of unused leaves for the years preceding the year of discharge from service.

118.3. The Minister of Internal Affairs or a senior official so empowered may, in cases warranting special consideration, grant, in view of justified needs of the Border Guardsman's family, severance pay in an amount of not more than 50 percent in the event of discharge from service pursuant to Article 45, Paragraph 1, Point 4, or Paragraph 2, Point 2.

Article 119.1. The amount of severance pay for regular Border Guard personnel equals three months' base salary plus regular monthly allowances dependent on the most recent service position held. This severance pay is liable to being increased by 20 percent of base salary plus regular monthly allowances for each additional full year of service in excess of five years of uninterrupted service, up to the amount equal to six months of base salary plus regular monthly allowances. A period of service that is longer than six months counts as a full year.

119.2. When determining the amount of severance pay, allowance also is made for the period of uninterrupted professional military service if, immediately after being discharged from that service, the serviceman becomes accepted into the Border Guard and has not received severance pay for his previous military service.

119.3. The provision of Paragraph 2 applies correspondingly in the event that service in the Border Guard is

commenced immediately after discharge from other services in which benefits of this kind apply.

119.4. The amount of severance pay for trainee Border Guard personnel equals one month's base salary plus the regular monthly allowances credited to the most recently held service position.

Article 120.1. In the event of demise of a Border Guardsman, his surviving family is entitled to death benefits in the same amount as the severance pay to which that Guardsman would have been entitled had he been discharged from service, along with the allowances referred to in Article 118, Paragraph 1, Points 2-4.

120.2. The allowances referred to in Paragraph 1 are payable to the spouse of the Border Guardsman who had remained in conjugal cohabitation with him and, next in the sequence, to his children and parents if, on the day of demise of the Border Guardsman, they had met the requirements of eligibility for a family pension pursuant to the regulations governing retirement benefits for Police personnel and their families or for professional military personnel and their families.

120.3. The provisions of Paragraphs 1 and 2 apply also to missing Border Guard personnel. The fact of their being missing and its service-connected nature are established by the Minister of Internal Affairs.

Article 121.1. Regular Border Guard personnel who are discharged from service pursuant to Article 45, Paragraph 1, Point 1, or Paragraph 2, Point 4, receive once a month, for a year following their discharge, a financial allowance in the amount corresponding to base salary plus the regular monthly allowances received in the most recent position held, with the exception of the family allowance, which is paid under the guidelines defined for Police personnel.

121.2. Border Guard personnel who are entitled to the benefits referred to in Paragraph 1 and become eligible for retirement benefits have the right to choose between either kind of benefits.

Article 122. The severance pay referred to in Article 118, and the benefits referred to in Article 121, do not apply to Border Guard personnel who, directly after their discharge from the Border Guard, join the professional military service or another service in which the right to such benefits applies.

Article 123.1. In the event of demise of the Border Guardsman, irrespective of the death benefits referred to in Article 120, either of the following two kinds of funeral benefits is granted:

- 1) The equivalent of three months' base salary plus regular monthly allowances received in the last service position held, if the funeral expenses are defrayed by the spouse, children, grandchildren, siblings, or parents.

2) The actual funeral expenses, but in an amount not higher than that referred to in Point 1, if the funeral expenses are defrayed by another person.

123.2. If the demise of the Border Guardsman occurs as a result of a service-connected incident, the funeral expenses are paid from the funds of the Ministry of Internal Affairs. The Minister of Internal Affairs may express consent to defraying the funeral expenses of a Border Guardsman whose demise was due to a service-connected illness.

123.3. In the event that the funeral expenses of a Border Guardsman are defrayed from the funds of the Ministry of Internal Affairs, the persons referred to in Paragraph 1, Point 1, are entitled to one-half of the funeral allowance.

Article 124.1. In the event of demise of a family member of a Border Guardsman, the person who defrays the funeral expenses is entitled to a funeral allowance amounting to:

1) Two months' base salary plus regular monthly allowances received in the most recent service position held, if the funeral expenses are defrayed by the Border Guardsman.

2) The actual funeral expenses, but in an amount not exceeding that referred to in Point 1, if they are defrayed by another person.

124.2. The Minister of Internal Affairs defines the terms for defraying the funeral expenses of Border Guard personnel from the funds of the Ministry of Internal Affairs and specifies the family members to whom the funeral allowance applies.

124.3. In the event of a coincidence of rights to the funeral allowance referred to in Paragraph 1 with the rights to a funeral allowance ensuing from separate regulations, the authorized person is entitled to whichever amount is higher and, if he or she has already collected the lower amount, he or she is entitled to a corresponding equalization pay.

Article 125.1. In the event of illness, furlough, release from official duties, or while remaining officially unassigned, Border Guard personnel continue to receive base salaries, regular monthly salary allowances, and other financial benefits linked to the most recently held position, with allowance for the intervening changes affecting the right to a salary and to other financial benefits as well as their amounts.

125.2. The Minister of Internal Affairs may entirely or partially restrict the payment of certain salary allowances during the illness, circumstantial leave, or unassigned status of Border Guard personnel.

Article 126.1. Border Guard personnel who are assigned to a school or for advanced training in this country

receive salaries and other financial allowances in the amounts and on the terms defined by the Minister of Internal Affairs.

126.2. The Minister of Internal Affairs defines, in consultation with the Minister of Finance, the amounts and terms for the payment of salaries and other financial benefits payable to Border Guard personnel who are assigned to academies or other schools (courses) abroad.

Article 127.1. Regarding those Border Guard personnel who receive the salaries envisaged in the regulations governing the remuneration of persons holding executive positions in the government, they and their family members are entitled to the financial benefits and allowances referred to in the present Law, with the exception of the benefits referred to in Article 76.

127.2. The financial benefits and allowances referred to in Paragraph 1 are paid in the amounts specified with allowance for the salaries due Border Guard personnel in their most recently held positions or according to the salary category binding on the day of discharge from service or on the day of demise.

Article 128.1. Border Guard personnel who are suspended from service have 50 percent of their salaries and allowances also suspended, with the exception of the family allowance.

128.2. In the event that suspension from service is waived, Border Guard personnel receive the suspended part of their salaries plus any intervening mandatory salary increases, unless they are discharged from service owing to sentencing by a legal judicial verdict or punished by the disciplinary penalty of expulsion from service.

Article 129.1. Border Guard personnel who are placed under temporary arrest are liable to suspension of 50 percent of their next monthly salary and allowances, with the exception of the family allowance.

129.2. In the event of the quashing of disciplinary proceedings or acquittal by a valid judicial verdict, Border Guard personnel are paid the suspended part of their salaries along with any intervening mandatory salary increases, even if the quashing or acquittal takes place after they are discharged from service, with the proviso of Paragraph 3.

129.3. The provisions of Paragraph 2 do not apply if the disciplinary proceedings are quashed owing to expiration of the time limit or owing to an amnesty, and also in the event of a conditional quashing of disciplinary proceedings.

Article 130.1. Border Guard personnel who willfully abandon their posts or remain outside them or fail to serve have their salaries suspended as of the next payday. If they have already collected their salaries for the time not spent in serving, a corresponding part of their salaries is deducted on the next payday.

130.2. In the event a Border Guardsman's absence is excused, the suspended salary is paid to him; in the event his absence cannot be excused, one-thirtieth part of his monthly salary is deducted for each day of absence.

130.3. The provisions of Paragraphs 1 and 2 apply correspondingly in the event of a culpable inability of a Border Guardsman to execute his duties.

130.4. Border Guard personnel who begin their unpaid leaves during a calendar month are entitled to a salary amounting to one-thirtieth part of the monthly salary for each day preceding the day on which unpaid leave begins. If a Border Guardsman has already collected his salary for the period of the unpaid leave, a corresponding part of his next salary is deducted on the next payday.

Article 131.1. Deductions from the salaries of Border Guard personnel may be made in accordance with judicial and executive writs of execution or special regulations, in accordance with the guidelines defined in the regulations governing judicial executions or executive proceedings in administration, or in accordance with other special regulations, unless subsequent provisions of the present Law specify otherwise.

131.2. The salaries referred to in Paragraph 1 are interpreted as base salaries plus salary allowances, the severance pay referred to in Article 118, and the benefits referred to in Articles 116 and 121. No deductions may be made from the family allowance.

131.3. The family allowance due to persons receiving alimony is paid to these persons; this allowance is not part of the salary determined with the object of fixing the amount of alimony.

131.4. The Minister of Internal Affairs specifies the agencies proper for performing salary deductions and the attendant operating procedures.

Article 132. The provisions of Article 131, Paragraphs 1-3, do not apply to advance payments, and in particular to advance payments of traveling expenses, temporary assignments, or relocation. Such payments are deducted in full from salaries, irrespective of the deductions for other reasons.

Article 133. Whenever the present Law refers to the regulations governing the retirement benefits of Police personnel and their families, this is construed as referring to the provisions of the Law dated 31 January 1959 on the Retirement Benefits of Citizens' Militia Personnel and Their Families (Dz.U., No. 46, Item No. 210, 1983; No. 20, Item No. 85, 1985; No. 38, Item No. 181, 1985; No. 35, Items No. 190 and No. 192, 1989; and No. 36, Item no. 206, 1990) and to the attendant implementing regulations.

#### **Chapter 14. Disciplinary and Criminal Responsibility of Border Guard Personnel**

Article 134. Border Guard personnel bear disciplinary responsibility for crimes and offenses committed, irrespective of their criminal responsibility.

Article 135.1. Border Guard personnel are liable to disciplinary responsibility for violating service discipline and in other cases defined in the present Law.

135.2. If the disciplinary proceedings are initiated on the recommendation of a court of law or a public prosecutor, the recommending office is to be informed about the outcome of these proceedings.

135.3. The provision of Paragraph 2 applies correspondingly when a court orders imposing a disciplinary penalty on a Border Guardsman without specifying the nature of that penalty.

Article 136.1. Border Guard personnel are liable to the following disciplinary penalties:

- 1) Admonition.
- 2) Reprimand.
- 3) Reprimand with warning.
- 4) Demotion to a lower-ranking position.
- 5) Demotion to a lower rank.
- 6) Demotion from the rank of officer, ensign, or junior ensign.
- 7) Expulsion from the service.

136.2. Irrespective of the penalties referred to in Paragraph 1 the penalty of prohibition against driving automotive and other vehicles for a period of from six months to three years also may be imposed. This penalty is imposed only for a deed consisting in the violation of traffic laws and subject to the verdict of a community court which a separate law authorizes to pronounce such verdicts.

136.3. Trainee Border Guard personnel may be subjected, in addition to the penalties referred to in Paragraph 1, also to the following disciplinary penalties:

- 1) Confinement to barracks.
- 2) Detention for up to 14 days.

136.4. In warranted cases the penalty of demotion to a lower-ranking position or of expulsion from the service may be combined with the penalty of demotion in rank, and in cases of traffic violations, with the penalty of prohibition against driving automotive and other vehicles.

Article 137.1. Disciplinary proceedings may not be initiated following the elapse of 90 days from the day on which the senior official referred to in Article 141 is notified about the offense or violation of service discipline.

137.2. Border Guard personnel are exempt from disciplinary penalties following the elapse of one year from the day on which the offense or violation referred to in Paragraph 1 is committed.

Article 138.1. For offenses liable to consideration in accordance with the provisions of the Code of Proceedings in Cases of Minor Offenses, Border Guard personnel bear disciplinary responsibility, unless subsequent provisions specify otherwise.

138.2. The agencies proper for issuing rulings on minor offenses, as well as other concerned agencies of institutions, direct their recommendations for penalizing Border Guard personnel to the commander of the concerned unit of the Border Guard.

138.3. For offenses for which, pursuant to the Code of Proceedings in Cases of Petty Offenses, or pursuant to other special regulations, the proper agencies specified in those regulations may impose monetary fines, Border Guard personnel bear responsibility in proceedings by police penal orders. The fines are imposed on Border Guard personnel by these agencies.

138.4. In the event of refusal or failure to pay the monetary fine, the agency proper for imposing the fine directs to the commander of the Border Guard unit a recommendation for punishing the Border Guardsman.

138.5. The recommendation referred to in Paragraphs 2 and 4 is, when it concerns the commanders themselves of Border Guard units or their deputies or personnel serving at the Main Headquarters of the Border Guard, addressed to the Commanding Officer of the Border Guard.

Article 139. In cases referred to in Article 138 disciplinary punishment may not be imposed after the expiration of the time limit specified for the concerned offense in the the Petty Offenses Code.

Article 140.1. For actions for which, under separate regulations, the proper agencies are authorized to impose penalties for breaches of order, Border Guard personnel bear solely disciplinary responsibility.

140.2. Border Guard personnel also are liable to disciplinary responsibility in cases in which the proper agencies are authorized to impose a fine with the object of coercion.

140.3. Subjecting Border Guard personnel to disciplinary responsibility is decided upon by the agencies referred to in Paragraphs 1 and 2; for commanders of Border Guard units the provisions of Article 138, Paragraph 5, apply correspondingly.

Article 141.1. The awarding of distinctions and imposition of disciplinary penalties are among the powers of senior officials, with the proviso of the instances referred to in Article 59.

141.2. Detailed guidelines and procedures for awarding distinctions, executing disciplinary proceedings, imposing and executing penalties, appealing against these penalties, and the competences of senior officials

in these matters, are defined in executive orders by the Minister of internal Affairs.

Article 142.1. Courts of honor are competent in cases of the failure of Border Guard personnel to adhere to the principles of professional ethics and in particular to the honor, dignity, and good name of the service.

142.2. Courts of honor are not competent in the cases referred to in Paragraph 1 if the actions perpetrated by Border Guard personnel provide a foundation for instituting disciplinary proceedings or constitute a petty offense or a crime.

142.3. Courts of honor issue their verdicts on the basis of personal conviction substructured on an unrestricted examination of evidence.

142.4. In issuing their verdicts the members of courts of honor are independent.

142.5. Courts of honor are elective bodies.

Article 143. The specific organizational structure of courts of honor, their competences, and their procedural guidelines are determined by courts of honor themselves.

Article 144. A Border Guardsman who, while performing his official duties, exceeds his powers or fails to complete his duties, thereby infringing upon the personal rights of citizens, is liable to the penalty of imprisonment for up to five years.

Article 145. Border Guard personnel who, in order to obtain an explanation, a confession, or a declaration, resort to physical duress, lawless threats, or moral torture, are liable to the penalty of imprisonment for a period of from one to five years.

Article 146.1. Border Guard personnel who carry out prohibited actions in obeying an order or an instruction are not considered as having committed a crime unless they are aware of the idea or, at least, accept it, that in executing the order or the instruction they are committing a crime.

146.2. In cases referred to in Paragraph 1 the person issuing the order or the instruction bears the responsibility for it.

Article 147. The senior official or an authorized Border Guardsman who is senior in rank, if he issues to a Border Guardsman an order or an instruction to implement an action constituting a crime, is subject to imprisonment for a period of from one to five years.

### Chapter 15. Interim and Final Provisions

Article 148.1. The Minister of Internal Affairs shall establish the Border Guard within six months from the effective date of the present Law.

148.2. Until the day on which the Border Guard is established, the Frontier Defense Troops shall continue to perform the duties defined in the present Law, in the Law on Protecting the State Border, and in other laws.

148.3. On the day the Border Guard is established the Frontier Defense Troops will be disbanded and their records, property, and tables of organization transferred by the Minister of Internal Affairs to the Border Guard.

Article 149. Whenever any laws refer to "the Frontier Defense Troops" and "the personnel of the Frontier Defense Troops" such references are henceforth to be construed as concerning "the Border Guard" and "the Border Guard personnel."

Article 150. Until such time when the Border Guard is established, the professional military personnel serving in the Frontier Defense Troops continue to be governed in their service relationship and the attendant rights and duties by the regulations governing the Polish Army, while Police personnel serving in the Frontier Defense Troops continue to be governed in this respect by the regulations governing the Police.

Article 151.1. Professional military and police personnel serving in the Frontier Defense Troops on the day the present Law takes effect, who apply by the procedure envisaged in Article 34, Paragraph 1, and are accepted for service in the Border Guard, are thereby also subject to discharge from professional military or Police service at the moment of their acceptance.

151.2. Professional military and police personnel serving in the Frontier Defense Troops who have not been accepted into the Border Guard are subject to discharge from professional military or police service. They retain the rights reserved for professional military and police personnel discharged from service under the regulations governing the Polish Army and the Police.

151.3. Professional military or police personnel who undertake to serve in the Border Guard by the procedure referred to in Paragraph 1, have their periods of seniority in the military or in the Police credited to their period of seniority in the Border Guard, along with all the attendant rights.

151.4. Servicemen who, on the day the present Law takes effect, perform their basic military service in the Frontier Defense Troops, continue to perform that service on the same basis in the organizational units of the Border Guard, until the legal period of that service expires.

151.5. The Minister of Internal Affairs or a senior official whom he so authorizes may, when so requested by persons who had been working in the capacity of employees prior to their acceptance into the Border

Guard, credit the years of their previous employment to their Border Guard seniority record, provided that their previous employment had been in the Ministry of Internal Affairs or in the Ministry of National Defense.

Article 152.1. The forces and resources of the Maritime Brigade of Coast Guard Vessels, as defined by the Ministers of National Defense and Internal Affairs, are incorporated in the Border Guard.

152.2. The provisions of Article 151 apply correspondingly to the personnel of the Maritime Brigade of Coast Guard Vessels.

Article 153.1. Recruits assigned, with their consent, to service in the Border Guard are appointed candidate Border Guard personnel for a period equal to the period of basic military service.

153.2. Candidate Border Guard personnel serve under the barracks system.

153.3. In the event that he consents to perform regular service in the Border Guard, the period of candidate service of the candidate Border Guardsman may be shortened to 12 months on the recommendation of the appropriate Border Guard unit commander.

153.4. The period of candidate service is credited to the period of trainee service if the interval between candidate service and commencement of trainee service is not longer than three months.

153.5. The provisions of Chapters 10-12 concerning trainee Border Guard personnel also apply to candidate Border Guard personnel, with the exception of the provisions of Article 92, Paragraph 2, and Article 119, Paragraph 4.

Article 154.1. Until the implementing regulations envisaged in the present Law are issued, the existing regulations remain binding, insofar as they do not conflict with the present Law, but for not longer than one year.

154.2. As regards Border Guard personnel who had previously been professional military personnel and used to be billeted in separate personal quarters, they are covered by the provisions of the Law on Billeting Armed Forces and the related implementing regulations.

Article 155. In the Law dated 21 November 1967 on the National Duty of Defending the Polish People's Republic (Dz.U., No. 30, Item No. 207, 1988; No. 20, Item No. 104, 1989; No. 29, Item No. 154, 1989; No. 34, Item No. 178, 1989; No. 30, Item No. 179, 1990; No. 34, Item No. 198, 1990, and No. 55, Item No. 319, 1990), in Article 3, Paragraph 2, the expression "the Air Force, the National Air Defense Troops, and" is replaced with the expression "the Air Force and Air Defense Troops as well as."

Article 156. The Decree dated 23 April 1953 on the Flag Carried on Vessels of the Border Defense Troops (Dz.U., No. 23, Item No. 94) is hereby voided.

Article 157. The present Law takes effect on the day of its publication.

President of the Republic of Poland: W. Jaruzelski

### Law on Communications

91EP0228A Warsaw RZECZPOSPOLITA (ECONOMY AND LAW supplement) in Polish 27 Dec 90 pp III-IV

[Law dated 23 November 1990 on Communications, also published in DZIENNIK USTAW in Polish No. 86 Item No. 504, 15 December 1990 pp 1173-1180]

[Text] The drafting of a Law on Communications has been beset by passionate disputes and polemics, which we had reported on extensively at one time. Today we can finally present below the final text of that law. Signed by the president of the Republic of Poland, it will be published in DZIENNIK USTAW, No. 86, on 15 December 1990. Thirty more days will have to elapse since that date before this Law can take effect. Thus there is a lot of time for attentively perusing its text.

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## Chapter 1

### General Provisions

Article 1.1. This Law regulates the guidelines for communications-related activities—the postal services and telecommunications.

1.2. Whenever international agreements ratified by the Republic of Poland regulate differently the guidelines set forth in the present law, these agreements apply.

Article 2.1. Whenever this Law refers to:

1) Postal services of a general nature, this is interpreted as the performance by the Post Office, for profit-making purposes, of services consisting in the conveyance and delivery of regular and registered mail, insured mail, and postal parcels, and the consignment and delivery of postal money orders.

2) Public telecommunication services, this is interpreted as services, rendered for profit-making purposes, consisting in the provision of telephone or telegraph links, with the proviso of Paragraph 2.

3) Telecommunication lines and facilities, this is interpreted as the lines and facilities serving to transmit, send, or receive, by means of electromagnetic energy, text, images, sound, and all kinds of information through cable, wireless, or optical means.

4) Telecommunications network, this is interpreted as an ensemble of interlocked communications lines and facilities.

5) Public telecommunications network, this is interpreted as a telecommunications network serving to provide telecommunications services to the public.

6) Internal telecommunications network, this is interpreted as a network installed and used solely with the object of satisfying the needs of the network operator.

7) Telecommunications standard, this is interpreted as an ensemble of normative data concerning the parameters of telecommunications transmission.

8) Telecommunications system, this is interpreted as an ensemble of telecommunications facilities and rules for their coordinated action.

9) Telecommunications network operator, this is interpreted as the entity authorized under this Law or by a license to establish and operate a telecommunications network, line, or facility, as well as to provide telecommunications services.

10) Utilization of the frequency spectrum, this is interpreted as the conduct of comprehensive engineering, administrative-economic, and inspection-monitoring activities, inclusive of the issuance of required licenses, with the object of streamlining the utilization of that spectrum for the needs of social, economic, and cultural growth of this country and to safeguard national defense and national security.

2.2. The minister of communications may issue an executive order introducing other telecommunications services as public services.

Article 3.1. Postal services are provided by Poczta Polska, the Polish Postal Service, a state nonprofit enterprise.

3.2. The services provided by other economic entities, referred to in Article 11, Paragraph 1, Point 12, of the Law dated 23 December 1988 on Economic Activity (Dz.U., No. 41, Item 324, 1988; and No. 28, Item 149, 1990) do not constitute postal services.

Article 4. Telecommunications services are provided by:

1) Telekomunikacja Polska, a joint-stock company [Polish Telecommunications, Incorporated].

2) Organizational units under the jurisdiction of the ministers of national defense and internal affairs, with respect to ministry needs met by means of their own cable and wireless telecommunications networks.

3) Entities which received a telecommunications license, hereinafter referred to as "the license."

Article 5. Matters relating to the broadcasting by the Catholic Church and other churches and denominational groups of their own programs, and of the installation and operation by the Catholic Church of its own radio communication facilities designed to broadcast radio and television programs, are regulated by separate laws.

Article 6. Internal telecommunications networks or their component parts may be utilized as public telecommunications networks upon receipt of a license from the

minister of communications, granted in accordance with the guidelines defined in Articles 14-19.

## Chapter 2

### Guidelines for Telecommunications Operations and the Coordination and Monitoring of These Activities

Article 7.1. For telecommunications facilities and systems installed and operated on the territory of the Republic of Poland, including telecommunications cable and conduits, an operating permit issued by the minister of communications and hereinafter referred to as "official certification," is required.

7.2. The official certification may be granted as a general or an individual one. A general official certification is granted for a system or type of telecommunications facility provided by a particular manufacturer. An individual official certification is granted to the manufacturer or operator of a particular facility or system.

7.3. General official certifications are granted by an executive order of the minister of communications.

7.4. Individual official certifications are granted through an administrative decision, on the request of the concerned party, which appends a recommendation by a domestic or foreign entity designated by the minister of communications to perform a precertification assessment study.

7.5. The period of validity of an official certification is determined separately for every individual type of facility or system, depending on how modern it is. A facility or system which is granted an official certification may be installed and operated on the territory of the Republic of Poland only so long as that certification remains valid.

7.6. The minister of communications may revoke an official certification in the event of a change in the technical parameters of the telecommunications facility or system.

7.7. Systems and facilities granted official certification should bear corresponding markings to be determined by the minister of communications.

7.8. The provisions of Paragraphs 1-7 do not apply to the telecommunications facilities designed to meet the needs of the ministries of national defense and internal affairs, unless these are linked to the public telecommunications network.

Article 8. The minister of communications may permit temporary operation of the facilities referred to in Article 7, Paragraph 1, for testing or experimental purposes in the absence of official certification, upon defining the terms of that operation.

Article 9. The minister of communications may issue executive orders defining:

1) Telecommunications systems and standards that can be installed or applied on the territory of the Republic of Poland.

2) Technical and operating requirements for the telecommunications facilities, lines, and networks installed and operated on the territory of the Republic of Poland.

3) Requirements for the coordinated operation of telecommunications facilities, lines, and networks.

Article 10.1. The operator of a telecommunications network is obligated to coordinate with the minister of communications plans for restructuring or expanding said network.

10.2. The minister of communications issues an executive order defining the scope of and procedure for the coordination referred to in Paragraph 1.

Article 11.1. The minister of communications, in consultation with the concerned ministers, defines the guidelines and requirements for installing telecommunications lines along public roads in localities, as well as along canals and waterways, and in the environs of airfields. He also specifies the requirements which these lines must meet in the event they cross or come close to railroad tracks, public roads, waterways and canals, power lines and installations, and facilities serving to transmit fluids and gases.

11.2. The minister of communications, in consultation with the concerned ministers, defines the requirements which must be met, from the standpoint of preventing disturbances in the performance of telecommunications lines and facilities, by power lines and electrical traction lines and facilities for the transmission of fluids and gases whenever they cross or come close to telecommunications lines and facilities.

Article 12. The license referred to in Article 4, Point 3, is granted in accordance with the guidelines specified in Articles 14-19 for the installation and operation of telecommunications facilities, lines, or networks, including internal telecommunications networks, and also for the provision of services by means of these facilities, lines, or networks.

Article 13. The minister of communications issues an executive order listing the telecommunications facilities, lines, and networks whose installation and operation do not require a license.

Article 14. The granting, refusal to grant, and revocation of licenses are within the competences of the minister of communications.

Article 15. Licenses may be granted to entities which, under separate regulations, are authorized to operate on the territory of the Republic of Poland, with the proviso of Article 16.

Article 16. Licenses may not be granted for the:

1) Provision of international public telecommunications services.

2) Operation of radio communication facilities designed to broadcast radio and television programs—to foreign entities or companies with foreign partners, if the share of the foreign entities or partners in the founding or share capital exceeds 33 percent.

3) Operation of telecommunications facilities, lines, and networks that are directly linked by cable, wireless, or international satellite systems, to lines, facilities, or networks located outside the borders of the Republic of Poland—to a foreign entity or a company with a foreign partner.

4) Operation of international telecommunications lines and networks and provision of interurban telecommunications services—to a foreign entity or a company with foreign partners if the share of foreign entities in the founding or share capital exceeds 49 percent.

Article 17. The license specifies:

1) The authorized person and his or her business or home address.

2) The nature, scope, and domain of the operations performed.

3) The conditions for performing the activity, concerning in particular the form in which services are provided, the technical requirements for telecommunications lines and facilities, the nature, design, and dimensions of the telecommunications network, the assumptions and conditions for its meshing with public telecommunications networks, and also the technical parameters, the site of installation of facilities, and the assigned identification numbers and frequencies.

4) The date of commencement of operations and the time limit of the license.

Article 18. The minister of communications refuses to grant the license if:

1) Granting the license endangers national defense or national security.

2) Granting the license conflicts with the international agreements to which the Republic of Poland is a party.

3) Operating the facility would interfere with the already existing facilities, or it is not technically feasible to connect the facility to the public and other telecommunications networks, lines, or facilities which the applicant intends to utilize.

4) It is not possible to assign to the applicant the identification number or frequencies needed to engage in operations to the extent requested by the applicant.

5) The applicant's license has been revoked pursuant to Article 19 of the present Law during the five years preceding the application.

Article 19. The minister of communications revokes the license if:

1) The operations comprised in the license are performed in a manner conflicting with the present Law or with the terms of the license.

2) The entity granted the license fails to implement the decisions issued pursuant to Article 29, Paragraph 5, of the present Law, or it persistently evades paying the fees envisaged in the present Law.

3) The entity granted the license fails to commence operations within the time limit specified in the license.

Article 20.1. Entities granted the license pay annual fees for the operation of telecommunications lines, facilities, or networks. In the event of delays in payment, the legal interest rate is charged on the arrears.

20.2. The minister of communications, in consultation with the minister of finance, issues an executive order defining the amounts of the fees referred to in Paragraph 1 and the procedure for paying them.

20.3. The fees referred to in Paragraph 1 are collected by the State Telecommunications Inspectorate [PIT], hereinafter referred to as PIT, and the State Radio Communications Agency [PAR], hereinafter referred to as PAR, in measure with the scope of their respective activities. These fees constitute revenues to the State Treasury.

20.4. The fees collected by the PIT and the PAR are governed by the regulations on executive proceedings in administration as regards the execution of obligations of a financial nature.

Article 21.1. The minister of communications specifies for the Polish public telecommunications network:

1) A plan for domestic identification numbering.

2) A plan for the allocation of identification numbers.

21.2. On the basis of the plan referred to in Paragraph 1, Point 2, the minister of communications assigns identification numbers to entities which apply for licenses to operate telecommunications networks.

21.3. The assignment of identification numbers is correspondingly governed by the provisions of Articles 14-18, with the proviso of Articles 4 and 5.

21.4. The minister of communications may announce auctions of identification numbers for particular areas of this country.

21.5. The requirements and procedure for the auctions referred to in Paragraph 4 are determined by the minister of communications.

Article 22. The minister of communications, in consultation with the interested ministers and after getting the opinion of the appropriate Sejm commissions, determines the policy on the allocation of domestic frequencies.



Article 23.1. The minister of communications assigns frequencies and identification signals for radio communications facilities to the entities applying for a license to operate these facilities, with the proviso of Articles 24 and 25.

23.2. The allocation of frequencies is governed correspondingly by Articles 14-19, with the proviso of Paragraphs 3-5.

23.3. In the event it is not feasible to allocate frequencies to all the entities applying for them, the minister of communications determines the conditions that should be met in operating particular frequencies and next he may announce a contest for their allocation.

23.4. The minister of communications shall define in an executive order the conditions and procedure for conducting the contest referred to in Paragraph 3.

23.5. The minister of communications may, irrespective of the reasons specified in Article 18, refuse to allocate frequencies in the case of:

1) Unavailability of vacant frequencies in the area in which the applicant intends to operate.

2) Lack of possibilities for protecting the available frequencies against noise.

Article 24.1. The conditions referred to in Article 23, Paragraph 3, concerning the allocation of frequencies to entities applying for a license to operate radio communications facilities designed to broadcast public radio and television programs are determined in consultation with the minister of culture and art.

24.2. The allocation of frequencies to the entities referred to in Paragraph 1, as well as the announcement of a contest for said allocation, takes place in consultation with the minister of culture and art.

Article 25. The minister of communications, in consultation with the ministers of national defense and internal affairs, allocates frequencies or frequency ranges to the armed forces and the organizational units under the jurisdiction of the minister of internal affairs.

Article 26.1. The entities allocated frequencies pay annual fees for their operation and, in the event of delays in payment, pay the legal interest rate on the arrears.

26.2. The minister of communications, in consultation with the minister of finance, shall define in an executive order the amounts and procedure for the payment of the fees referred to in Paragraph 1.

26.3. The fees referred to in Paragraph 1 are collected by and constitute the revenues of the PAR.

26.4. The fees collected by the PAR are governed by the regulations on executive proceedings in administration as regards the execution of obligations of a financial nature.

Article 27. The minister of communications, in consultation with the concerned ministers, defines in an executive order the requirements and procedure for granting radio operator licenses in aviation service, in maritime service, and in inland navigation, and also in amateur radio service, as well as the amounts of fees for these licenses.

Article 28.1. Records are kept of the telecommunications networks, lines, and facilities installed and operated on the territory of the Republic of Poland.

28.2. The operators of the telecommunications networks, lines, and facilities referred to in Paragraph 1 provide the collective data needed for record keeping.

28.3. The minister of communications defines the scope and procedure for record keeping and the agencies appropriate for this purpose.

28.4. The provisions of Paragraphs 1 and 2 do not apply to the organizational units under the jurisdiction of the ministers of national defense and internal affairs, which perform on their own the activities defined in these provisions.

Article 29.1. The agencies of the minister of communications monitor the telecommunications lines, facilities, and networks, and they also monitor the adherence to the utilization of the allocated frequencies, call signs, and identification signals.

29.2. In particular, the operation of telecommunications lines, facilities, and networks is monitored, as is the consonance of their performance with the binding regulations and the consonance of the related activities with the conditions specified in the operating license.

29.3. The personnel of the monitoring agencies have the right of, after showing their official identification and a written authorization:

1) Access to the premises of the monitored entity and the installations and real estate on which are located, or being installed, telecommunications networks, lines, and facilities.

2) Inspecting the networks, lines, and facilities and conducting tests and measurements.

29.4. The managers of the monitored entities are obligated to assure the conditions for an efficient conduct of the monitoring and to provide aforementioned personnel with the records and documents needed for the monitoring, as well as to provide indispensable information.

29.5. In the event it is found that the material or technical condition or the performance of telecommunications lines and facilities is inconsonant with the binding regulations or the terms of the operating license and interferes with the performance of other telecommunications lines and facilities, the monitoring agency issues an administrative decision specifying the extent of the violations and the deadline for eliminating them.

29.6. The monitoring agency is an executive agency as interpreted by the regulations governing executive proceedings in administration, with respect to the execution of obligations of a financial nature.

29.7. The monitoring agency is obligated to prepare a record of the inspection, signed by the employee who conducts the inspection and by the manager of the inspected entity.

29.8. The provisions of Paragraphs 1-7 do not apply to the organizational units under the jurisdiction of the ministers of national defense and internal affairs, which perform the related activities on their own.

Article 30.1. The agencies of the minister of communications appointed to conduct the monitoring referred to in Article 29 are: the State Telecommunications Inspectorate (PIT), which monitors cable telecommunications networks, lines, and facilities, and the State Radio Communications Agency (PAR), which is appointed in particular to monitor radio communications networks, lines, and facilities and the utilization of frequencies.

30.2. The minister of communications may instruct the PIT and the PAR to perform other duties and assignments relating to the state administration.

30.3. The minister of communications exercises supervision over the PIT and the PAR.

Article 31.1. Irrespective of its duties specified in Article 29, the PAR's duties also include:

- 1) Creating conditions promoting the growth of domestic radio communications services by safeguarding for the Republic of Poland the needed frequency allocations and assuring access to particular positions on geostationary orbits and geostationary satellites, as well as implementing the needed international coordination in that respect.

- 2) Recording and analyzing the needs reported by domestic operators as regards the spectrum of radio frequencies, and the planning and coordination of the utilization of that spectrum.

- 3) Conducting the needed technical operations relating to the control and elimination of harmful radio-electrical interferences resulting in a deteriorated effectiveness of utilization of the frequency spectrum.

31.2. The minister of communications may authorize the PAR to grant licenses concerning radio communications facilities, to implement frequency allocations, and also to issue radio operator licenses.

31.3. The minister of communications may instruct the PAR to execute other activities and duties relating to radio communications.

Article 32.1. In the event it is found that the machinery and technological facilities generating a high-frequency electromagnetic field interfere with the performance of telecommunications facilities, the PAR issues an administrative decision ordering the elimination of these interferences within a specified time limit.

32.2. In the decisions referred to in Paragraph 1 the PAR may, in particular, order a halt to the operation of the machinery and facilities, order changes in their operating procedures, and impose the obligation of eliminating the interferences, damage, or flaw detected.

32.3. The appropriate PAR office issuing the decision referred to in Paragraph 1 is an executive office as interpreted by the regulations governing executive proceedings in administration, as regards the execution of obligations of a financial nature.

32.4. The provisions of Paragraphs 1-3 do not apply to the organizational units under the jurisdiction of the ministers of national defense and national security, which perform the related activities on their own.

Article 33. The minister of communications defines in an executive order the organizational structure and detailed scope of activities of the PIT.

Article 34. PIT and PAR personnel are governed by the provisions of the Law dated 16 September 1982 on Government Agency Employees (Dz.U., No. 31, Item 214, 1982; No. 35, Item 187, 1984; No. 19, Item 132, 1988; No. 4, Item 24, 1989; No. 34, Items 178 and 182, 1989; and No. 20, Item 121, and No. 51, Item 300, 1990).

Article 35.1. The PAR is an institution funded from the Central Budget and consists of:

- 1) The National Board, with offices in Warsaw, headed by a chairman.

- 2) District boards, headed by district directors.

35.2. The chairman of the National Board is appointed and recalled by the minister of communications.

35.3. The minister of communications establishes in an executive order the statute of the PAR, in which he defines the specific scope of activities and organizational structure of the PAR and appoints district boards and designates their sites and territorial scope of activities.

Article 36.1. An entity providing public telecommunications services defines the scope of and conditions for the performance of these services in a manual available to the public.

36.2. The entity providing public telecommunications services may not refuse anyone the utilization of these services, unless the requestor of the services fails to meet the requirements specified in the manual referred to in Paragraph 1.

Article 37. The owner of real estate or another person owning the legal title to the utilization of real estate is obligated to make it possible for the entities providing public telecommunications services to locate on his or her real estate line equipment, telecommunications installations, and the related signposts—on terms to be defined in the related agreement.

Article 38.1. The operator of a public telecommunications network may not refuse connecting another telecommunications network to his network.

38.2. The terms and fees for the connection referred to in Paragraph 1 are determined in the agreement concluded between the network owners.

Article 39.1. Fees for telecommunications services are, with the proviso of Paragraphs 3 and 4, fixed by the network operator.

39.2. The terms for settling fees for the services whose provision requires coordinated operation of telecommunications lines and facilities operated by different telecommunications networks are determined in the agreements concluded between the operators of these networks.

39.3. The minister of communications may introduce maximum fees for public telecommunications services.

39.4. The fees charged for the utilization of international telecommunications services are fixed in consultation with the minister of communications.

39.5. The following are fee-exempt: telephone and radio-telephone conversations and telegrams constituting appeals for aid in the event of a natural disaster or other force majeure, and in particular in the event of a catastrophe, the forced landing of an aircraft, fire, flood, extraordinary danger to the community, or another disaster owing to some elemental event, as well as announcements of epidemics, mass food poisonings, contagious animal diseases, and the appearance of crop pests subject to the legal duty of notification. Fee exemptions do not apply to telephone and radio telephone conversations and telegrams by the offices of administration appointed to provide assistance and to control communicable human, animal, and crop diseases.

Article 40.1. Operators of public telecommunications networks are obligated to adhere to the decisions of the Vienna Convention on diplomatic relations as regards safeguarding means of communications for the foreign missions located in their respective territories of operation.

40.2. The minister of communication, in consultation with the minister of foreign affairs, issues an executive order specifying the guidelines for proceeding in matters covered by the present Chapter with respect to diplomatic missions, consular offices, and other foreign missions eligible for the privileges and immunities granted under international laws, agreements, and customs, as well as with respect to their personnel and other persons eligible for that status if these are not Polish citizens and if their permanent domicile is outside the territory of the Republic of Poland.

Article 41. The confirmation of the dispatching of a telegram sent through an organizational unit of Polish Telecommunications, Incorporated, has the power of an official document.

### Chapter 3

#### Guidelines for the Provision of Postal Services

Article 42.1. Postal services are provided by Poczta Polska, the Polish Post Office, a public service enterprise.

42.2. Whenever the present Law or separate regulations employ the term "the postal service" in referring to an entity, this is construed as referring to Poczta Polska.

Article 43.1. The amounts and forms of fees for the services of Poczta Polska are determined by the director of Poczta Polska.

43.2. The Council of Ministers may introduce maximum fees for common postal services as well as for the conveyance of postal shipments implemented pursuant to Article 54.

43.3. Parcels containing printed matter or other media of information for the blind are fee-exempt.

43.4. The fees for international postal services are fixed in consultation with the minister of communications.

Article 44.1. Postage stamps are official tokens of value and serve to pay the fees for postal services specified by the director of Poczta Polska.

44.2. Poczta Polska has the exclusive right to print and circulate postage stamps, with the proviso of Paragraphs 3 and 4.

44.3. The minister of communications defines the annual plan for issuing postage stamps, which specifies the number of stamps, the sequence in which they are to be introduced into circulation, and their subject matter and designs.

44.4. The minister of communications may specify the forms of publication of special editions of postage stamps and the sizes of their issues.

44.5. The minister of communications may specify the extra charges for special editions of postage stamps referred to in Paragraph 4 and the social purposes for which revenues from these stamps are to be earmarked.

Article 45. Receipts given by the organizational units of Poczta Polska for postal matter and telegrams, money orders, and deposits into savings and checking accounts have the power of official documents.

Article 46. It is unlawful to encumber postal matter with a lien or confiscate it, unless special regulations specify otherwise.

Article 47.1. Poczta Polska has the legal right of encumbering postal matter with a lien in order to assure the payment of postal fees and customs duties and other related expenditures of Poczta Polska.

47.2. The provisions of Paragraph 1 do not apply if the addressee of the postal matter is an agency of the authorities or state administration or an office of a local government.

Article 48.1. Poczta Polska has the right to open undeliverable mail with the object of identifying the addressee or the sender.

48.2. The minister of communications defines in an executive order the procedure for opening and handling undeliverable mail.

Article 49. Poczta Polska employees are entitled to the legal protection envisaged by the Criminal Law Code for civil servants.

Article 50. Claims against Poczta Polska are considered by a court of the first instance for the district in which the organizational unit operates under the direct jurisdiction of the director of Poczta Polska, when the claim concerns the activities of that unit.

Article 51. Organizational units of Poczta Polska have the right to use decorations bearing the emblem of the Republic of Poland and an official seal bearing the image of the emblem of the eagle along with an inscription.

Article 52. Poczta Polska may not refuse providing regular postal services to any customer, unless the customer does not meet the conditions specified by the minister of communications.

Article 53. The means of transportation serving to carry postal shipments and the buildings, premises, and other real estate used by Poczta Polska may not be occupied for other purposes, unless special regulations specify otherwise.

Article 54.1. Transportation enterprises providing regular public land, air, sea, or inland-navigation transportation are obligated to transport, in return for payment, postal freight in separate compartments or caches and provide Poczta Polska at their terminals and in their harbors with possibilities for using the needed premises

and facilities as well as providing free access to loading and unloading areas for Poczta Polska personnel.

54.2. The common carriers referred to in Paragraph 1 are obligated in particular to:

1) Transport postal freight under the supervision of their own or Poczta Polska personnel on terms specified in the agreements concluded between them and Poczta Polska.

2) Designate employees for performing postal services in terminal or harbor areas.

3) Determine timetables in consultation with the offices of Poczta Polska on taking into consideration the needs of postal service.

4) Allow gratis installation of mailboxes on or in means of transportation.

5) With regard to motor carriers, also transport postal freight in separate baggage compartments or in Poczta Polska containers adapted to the carrying and loading capacities of vehicles, as well as to tow special Poczta Polska trailers when so warranted by the technical specifications of the vehicle.

54.3. The requirements for using the premises and facilities of the enterprises referred to in Paragraph 1, as well as the rights and duties of Poczta Polska and these enterprises are defined in agreements concluded between these enterprises and Poczta Polska.

54.4. The Council of Ministers specifies the guidelines for the conveyance of postal freight by rail.

55.5. Poczta Polska cooperates with the proper entities as regards the conveyance of special shipments of the Ministry of Internal Affairs, on terms and conditions agreed upon between the minister of communications and the minister of internal affairs.

Article 55. Plans for building, renovating, or expanding rail, sea, inland-navigation, and air facilities, as well as road transportation facilities, should allow for the needs of the transloading and conveyance of postal freight and, in that sense, require coordinating with Poczta Polska.

Article 56. Poczta Polska has the right of installing gratis on real estate mailboxes, letter delivery boxes, and automatic postal vending machines.

#### Chapter 4

##### Responsibility of Entities Providing Postal and Telecommunications Services for Failure To Provide These Services or for Their Improper Execution

Article 57.1. An entity providing public postal or telecommunications services is responsible for the failure to provide these services or for their improper execution only to the legally defined extent.

57.2. An entity providing postal or telecommunications services that are of other than public nature is responsible under the Civil Law Code for the failure to provide these services or for their improper execution.

57.3. An entity providing postal or telecommunications services in international traffic is responsible to the extent and under the guidelines specified in international agreements for the failure to provide these services or for their improper execution.

Article 58.1. An entity providing public postal or telecommunications services bears responsibility for the failure to provide these services or for their improper execution, unless said failure or said improper execution occur owing to a force majeure, the failure of the sender or the addressee to adhere to the regulations governing the provision of the service in question, or through the fault of the orderer of the service.

58.2. In the event that delivery is taken by the recipient without any reservations, all claims against Poczta Polska expire. This does not apply, however, to claims concerning a tardy delivery of postal matter, provided that the recipient notifies Poczta Polska accordingly within a week from the date of that delivery.

58.3. The provisions of Paragraph 2 do not apply when the damage is deliberately caused by Poczta Polska or due to its flagrant neglect.

Article 59. If the damage is a consequence of a prohibited action, the entity providing the postal or telecommunications service bears responsibility under the provisions of the Civil Law Code.

Article 60. The minister of communications defines in an executive order:

- 1) The conditions for the utilization of regular postal services.
- 2) The additional services and the conditions for their utilization.
- 3) The time limits following whose expiration the delivery of a telegram, an express mail shipment, or a postal money order is considered to be tardy.
- 4) Cases in which a telegram or a postal money order are considered as undelivered.

Article 61.1. Compensation for the loss of registered mail letters or parcels is, irrespective of its value, fixed at 50 times the registered mail fee.

61.2. Compensation for damage to a registered mail parcel containing documents or books is fixed in the amount of the actual damage, and it may not exceed the amount due in the event of loss of that parcel.

Article 62.1. Compensation for the loss of insured mail is paid in the amount of the value for which the sender insured the mail.

62.2. Compensation for partial loss of contents of or damage to insured mail is fixed in the amount of the ordinary value of the items whose loss or damage is established, and the compensation should not exceed the value for which the sender insured the mail.

Article 63.1. Compensation for the total or partial loss of contents of or damage to postal parcels not insured for a specified value is paid in the amount of the ordinary value of the lost or damaged items.

63.2. Compensation for the perishable contents of an express mail parcel consigned to an addressee resident in the local postal zone, when such contents become spoiled owing to their tardy delivery, is fixed in the amount of the ordinary value of the spoiled items.

63.3. In the cases referred to in Paragraphs 1 and 2 the compensation may not exceed 15 times the lowest fee for the conveyance of a one-kilogram parcel multiplied by the weight of the particular parcel in kilograms, with a fraction of a kilogram considered to be equal to one kilogram.

Article 64. Compensation for tardy delivery of an express mail shipment is fixed in the amount of five times the express mail fee.

Article 65.1. Compensation for failure to deliver a postal money order is fixed in the amount of five times the fee for sending that order.

65.2. Compensation for tardy delivery of a telegraphed or express mail money order is fixed in the amount of five times the express mail fee.

Article 66.1. Compensation for failure to deliver a telegram is fixed in the amount of five times the fee for sending that telegram.

66.2. Compensation for distorting the wording of a telegram or of the correspondence included in a telegraphed money order to the extent of making it unintelligible or altering its meaning is fixed in the amount of five times the fee for sending that telegram.

66.3. Compensation for the tardy delivery of a telegram is fixed in the amount of five times the fee for sending that telegram.

Article 67. Compensation for failure to provide, or for improper provision of, the services defined as additional in the regulations issued on the basis of Article 60, Point 2, is fixed in the amount of five times the fee for a given additional service.

Article 68.1. In the event that subscribers find it impossible over periods of more than three days at a time to avail themselves of telephone or telegraph services, the entities providing these services bear the responsibility for the failure to implement, or for improper implementation, of the terms of the subscription agreement.

68.2. In the cases referred to in Paragraph 1 the compensation is fixed in the amount of one-thirtieth the monthly subscription fee for each day of interruption of the subscribed service.

Article 69. Irrespective of the compensation, the entities providing regular services refund in its entirety the fee for the services not provided. If a service is provided only in part, the refund concerns the part of the fee not covered by the service provided. Said entities also refund the subscriptions paid by means of postal money orders in the event of failure to provide services.

Article 70.1. The right to file claims ensuing from the present Law belongs to any person or legal entity concluding an agreement for the provision of a public postal or telecommunications service.

70.2. In the event of receipt of postal matter by the addressee, the right to file the claim of compensation referred to in Paragraph 1 belongs to the addressee.

70.3. The sender of mail, money order, or telegram, may relinquish in favor of the addressee his right to file claims ensuing from the present Law.

70.4. The addressee of postal matter who, pursuant to Paragraph 2, has the right to file a compensation claim, may relinquish that right in favor of the sender.

70.5. Claims filed on the basis of the present Law remain valid for one year from the day following the day on which an agreement for the provision of a public postal or telecommunications service is concluded.

Article 71.1. The right to file claims in judicial proceedings on the basis of the present Law or the implementing regulations applies following the exhaustion of administrative proceedings.

71.2. Claims may be reported to any organizational unit of the entity providing the service concerned.

71.3. The claimant has the right of appeal to a higher superior of the organizational unit.

71.4. Administrative proceedings as regards claims are viewed as exhausted:

1) On the day on which the claimant is notified of the position taken by the superior unit referred to in Paragraph 3.

2) After three months from the day the claim is reported.

71.5. The one-year time limit is suspended after a claim is filed.

Article 72. Disputes between Poczta Polska or entities providing public telecommunications services and the persons availing themselves of these services are resolved by common courts.

## Chapter 5

### Announcements of Implementing Regulations

Article 73. Implementing regulations for the present Law, concerning the execution of the rights and duties of citizens, are subject to publication in *DZIENNIK URZEDOWY RZECZYPOSPOLITEJ POLSKIEJ MONITOR POLSKI*.

Article 74. The implementing regulations issued on the basis of the present Law are, if other than those referred to in Article 73, published in *DZIENNIK URZEDOWY MINISTERSTWA LACZNOSCI*.

Article 75. The publication of an implementing regulation in *DZIENNIK URZEDOWY RZECZYPOSPOLITEJ POLSKIEJ MONITOR POLSKI* is no obstacle to its publication in *DZIENNIK URZEDOWY MINISTERSTWA LACZNOSCI* as well, if so warranted by considerations of streamlining the organization of labor.

## Chapter 6

### Interim and Final Provisions

Article 76.1. Within a period of time ending on 31 December 1991 the minister of communications shall convert the state organizational unit Polish Post, Telegram, and Telephone, hereinafter referred to as PPTT, to the public service enterprise Poczta Polska and to Telekomunikacja Polska, S.A. [Polish Telecommunications, Incorporated].

76.2. The Council of Ministers shall determine the procedure for the conversion referred to in Paragraph 1.

Article 77. The minister of communications is the parent agency of Poczta Polska and represents the State Treasury vis a vis Polish Telecommunications, Incorporated.

Article 78. Until such time when the conversion of the PPTT is completed, whenever the present Law refers to Poczta Polska and Polish Telecommunications, Incorporated, it is to be interpreted as referring to the PPTT.

Article 79. Poczta Polska may perform, irrespective of postal services, certain banking operations mentioned in Article 11, Paragraph 1, of the Law on Banking dated 31 January 1989 (Dz.U., No. 4, Item 21; No. 54, Item 320, No. 59, Item 350, and No. 74, Items 439 and 440, 1989), to the extent of and on terms defined by the minister of communications in consultation with the chairman of the National Bank of Poland and the minister of finance.

Article 80. In conformity with the ongoing conversion, PPTT personnel become, by virtue of law, employees of, respectively, Poczta Polska and Polish Telecommunications, Incorporated. They retain their existing labor relationships and the attendant rights and duties.

Article 81. The obligations ensuing from the labor relationships formed prior to the conversion of the PPTT are borne by, as the need arises, either Poczta Polska or Polish Telecommunications, Incorporated.

Article 82. In the event of sales of stock in Polish Telecommunications, Incorporated, its personnel are entitled to the [employee stock ownership] rights arrogated for the employees of state enterprises subjected to privatization.

Article 83. Whenever separate regulations refer to the PPTT, they are herewith construed to mean Poczta Polska and Polish Telecommunications, Incorporated.

Article 84.1. Within three months from the effective date of the present Law the State Radio Inspectorate (PIT) is disbanded.

84.2. The assets of the State Radio Inspectorate are transferred to the State Radio Communications Agency.

Article 85. The Council of Ministers appoints the Government Representative for Rural Telecommunications and defines his tasks and powers in an executive order.

Article 86. In the Law dated 20 May 1971 on the Petty Offenses Code (Dz.U., No. 12, Item 114, 1971; No. 24, Item 124, 1981; No. 16, Item 125, 1982; No. 6, Item 35, and No. 44, Item 203, 1983; No. 54, Item 275, 1984; No. 14, Item 60, and No. 23, Item 100, 1985; No. 39, Item 193, 1986; No. 20, Item 135, and No. 41, Item 324, 1988; No. 34, Item 180, 1989; and No. 52, Item 297, No. 72, Item 422, 1990), Paragraphs 2 and 3 of Article 63 are reworded as follows:

"Article 63.2. The same penalty is imposed on whoever installs or operates telecommunications lines or networks, or radio transmission and transmission-reception facilities, without possessing the required operating license or official certification, as well as on whoever avails himself of a frequency without being officially allocated one.

"63.3. Forfeiture of the objects serving to carry out the actions referred to in Paragraphs 1 and 2 may be ordered, even if they are not owned by the perpetrator."

Article 87. In the Law dated 23 December 1988 on Economic Activity (Dz.U., No. 41, Item 324, 1988; and No. 26, Item 149, 1990) the following amendments are incorporated:

1) In Article 4 the original text is designated as Paragraph 1 and the following Paragraph 2 is added:

2.) "Engaging in an economic activity consisting in the conveyance and delivery of mail in international communications for profit-making purposes is prohibited."

2) In Article 11, Paragraph 1, the following Point 12 is added:

12) "Services consisting in the conveyance and delivery of mail for profit-making purposes."

Article 88. In the Law dated 17 May 1989 on the Relationship Between the State and the Catholic Church in the Republic of Poland (Dz.U., No. 29, Item 154,

1989; No. 51, Item 297, and No. 55, Item 321, 1990) Article 48 is reworded as follows:

"Article 48.1. The Church has the right to broadcast masses via the mass media on Sundays and holidays, along with its own programs, and in particular religious-moral, civic, and cultural programs.

"48.2. The procedures for implementing Paragraph 1 are governed by the understanding between the Committee for Radio and Television Affairs, Polish Radio and Television, and the Secretariat of the Conference of the Episcopate of Poland.

"48.3. The Church has the right to install and operate radio communications facilities designed to broadcast radio and television programs, and to be allocated the needed frequencies for that purpose.

"48.4. The procedure for implementing Paragraph 3 is regulated by the understanding concluded between the minister of communications and the Secretariat of the Conference of the Episcopate of Poland."

Article 89. In the Law dated 17 May 1989 on Safeguards for Freedom of Conscience and Religion (Dz.U., No. 29, Item 155, 1989; No. 51, Item 297, and No. 55, Item 321, 1990), in Article 25, Paragraph 4, the expression "moral" is followed by a comma and the expression "social" added.

Article 90. In the Law dated 1 December 1989 on Establishing the Office of the Minister of Communications (Dz.U., No. 67, Item 408), in Article 4, Paragraph 1, Point 5, the expression "tariffs" is replaced with the expression "maximum fees."

Article 91.1. The rebates and exemptions granted by the minister of communications under Article 49, Paragraph 3, of the Law dated 15 November 1984 on Communications (Dz.U., No. 54, Item 275, 1984; No. 33, Item 180, 1987; No. 41, Item 324, 1988; and No. 67, Item 408, 1989) retain their binding power.

91.2. Decisions issued on the basis of the law referred to in Paragraph 1 retain their binding power insofar as they do not conflict with the present Law.

Article 92. The following laws herewith become null and void:

1) Law dated 15 November 1984 on Communications (Dz.U., No. 54, Item 275, 1984; No. 33, Item 180, 1987; No. 41, Item 324, 1988; and No. 67, Item 408, 1989), with the exception of Articles 34-42, 52, 55, and 57-62, which remain binding until the conversion of the PPTT is completed, but not longer than until 31 December 1991.

2) Law dated 18 January 1951 on the Installation of Letter Boxes in Residential Buildings for the Delivery of Mail and Periodicals (Dz.U., No. 6, Item 54, 1951; No. 37, Item 155, 1953).

Article 93. Until the implementing regulations envisaged in the present Law are issued, the existing regulations remain binding insofar as they do not conflict with the present Law, but not longer than until 31 March 1991.

Article 94. The present Law takes effect 30 days from the date of its publication.

### **Executive Order Governing Special Economic Enterprises**

91EP0205B Warsaw *DZIENNIK USTAW* in Polish  
No 82 Item No 477, 28 Nov 90 p 1121

[Executive Order of the Council of Ministers, dated 16 November 1990, governing the designation of state enterprises of special significance for the national economy, privatization of which requires the consent of the Council of Ministers]

[Text] Pursuant to Article 2, Paragraph 2 of the Law dated 13 July 1990 on Privatization of State Enterprises (Dz.U., No. 51, Item No. 298) the following is decreed:

Paragraph 1.1. The following are state enterprises of particular significance to the economy of the state as interpreted in Article 2, Paragraph 2 of the Law dated 13 July 1990 on Privatization of State Enterprises (Dz.U., No. 51, Item No. 298) privatization of which requires the consent of the Council of Ministers:

1) The state enterprises referred to in Article 5 of the law dated 25 September 1981 on state enterprises (DZ.U., No. 35, Item No. 201, 1987; No. 10, Item No. 57, 1989; No. 20, Item No. 107, 1989; No. 17, Item No. 99, 1990; and No. 51, Item No. 298, 1990).

2) Power stations, heat and power plants, and enterprises possessing mainline grids.

3) Oil refineries.

4) Hard coal and brown coal mines.

5) Oil and gas-producing enterprises and enterprises prospecting for oil and natural gas.

6) Enterprises importing gas, as well as those transporting and storing gas.

7) Enterprises producing railway rolling stock.

8) Enterprises for pedigree breeding.

9) Enterprises for plant propagation.

10) Enterprises of the alcohol industry.

11) Facilities for serum and vaccine manufacturing and orthopedic enterprises.

12) Resort treatment facilities.

13) Health care supply enterprises.

1.2. The following are also among the enterprises referred to in Paragraph 1:

1) Szopienice Nonferrous Metals Mill in Katowice.

2) Trzebinia Metallurgical Enterprise in Trzebinia.

3) Gorazdze Cement and Lime Enterprise in Chorula, Opole Voivodship.

4) Ozarow Cement Plant in Ozarow, Tarnobrzeg Voivodship.

5) Iskra Ball Bearings Factory in Kielce.

6) VIS Tool Industry Combine in Warsaw.

7) Zgoda Technical Equipment Enterprise in Swietochlowice.

8) Agromet Harvesting Machinery Factory in Plock.

9) A. Kowalski Pump Factory in Warsaw.

10) Elwro Electronics Enterprise in Wroclaw.

11) H. Cegielski Metal Industry Enterprise in Poznan.

12) Jelcz Automotive Works in Jelcz.

13) Ursus Tractor Industry Association in Warsaw.

14) Commune of Paris Shipyard in Gdynia.

15) A. Warski Szczecin Shipyard in Szczecin.

16) Ema-Centra Amalgamated Electrochemical Enterprises in Poznan.

17) Unitra-Cemat Research and Production Center for Electronic Materials in Warsaw.

18) Unitra-Telpod Research and Production Center for Hybrid Microelectronics and Resistors in Krakow.

19) Unitra-Dolam Research and Production Center for Electronic Subassemblies and Devices in Wroclaw.

20) Oswiecim Chemical Enterprise in Oswiecim.

21) Blachownia Chemical Enterprise in Kedzierzyn-Kozle.

22) Kedzierzyn Nitrogenous [Fertilizer] Plant in Kedzierzyn-Kozle.

23) Nitrogenous [Fertilizer] Plant in Tarnow.

24) Wloclawek Nitrogenous [Fertilizer] Plant in Wloclawek.

25) Police Chemical Enterprise in Police.

26) Pulawy Nitrogenous [Fertilizer] Plant in Pulawy.

27) Erg Plastics Enterprise in Pustkow.

28) Polon Amalgamated Nuclear Equipment Enterprise in Warsaw.



29) PZZ [State Grain Elevators] Enterprise for Export-Import Trade in Grain in Gdansk.

30) Polish Marine Rescue Service in Gdynia.

31) Cable Line Construction Enterprise headquartered in Warsaw.

Paragraph 2. This Executive Order takes effect on the day of publication.

Chairman of the Council of Ministers: T. Mazowiecki

### **Executive Order on Minister of Ownership Transformations Duties**

*91EP0206A Warsaw DZIENNIK USTAW in Polish  
No 82 Item No 476, 28 Nov 90 pp 1119-1120*

[Executive Order of the Council of Ministers, dated 14 November 1990, governing the specific sphere of activities of the minister of ownership transformations]

[Text] Pursuant to Article 4, Paragraph 1 of the Law dated 13 July 1990 on Creating the Office of the Minister of Ownership Transformations (Dz.U., No. 51, Item No. 299) the following is decreed:

Paragraph 1.1. The following fall within the scope of responsibilities of the minister of ownership transformations:

1) In the area of developing the planks of state policy in the field of privatization and cooperation in capital [transfers] with foreign countries:

a) Developing, in cooperation with other chief (central) organs of state administration, drafts of basic avenues of privatization and the appropriation of proceeds received by the State Treasury from privatization.

b) Approaching the Council of Ministers in the matter of setting forth the types of state enterprises of special significance to the economy of the state, the privatization of which will require the consent of the Council of Ministers.

c) Promoting and organizing activities intended to increase the interest of foreign entities in purchasing shares and making contributions to companies created as a result of privatization.

d) Developing drafts of normative acts on privatization and operation of the capital market.

e) Developing, in coordination with the minister of finance, drafts of issuance of privatization certificates and other securities which may be used to pay for shares, contributions to companies formed as a result of transforming state enterprises, and the assets of liquidated state enterprises.

2) In the field of tasks specified in regulations on privatizing state enterprises:

a) Transforming state enterprises into companies at their request or at the request of the founding organ.

b) Approaching the Chairman of the Council of Ministers with proposals to transform state enterprises through the procedures envisaged in Article 6 of the Law dated 13 July 1990 on the Privatization of State Enterprises (Dz.U., No. 51, Item No. 298).

c) Granting charters or [founding] contracts to companies created by transforming state enterprises.

d) Ordering economic-financial reviews of the enterprises of companies created as a result of transforming state enterprises.

e) Ordering reviews with a view of settling the legal status of the assets of the enterprises of companies created as a result of transforming a state enterprise.

f) With the consent of the minister of finance, making declarations on the assumption by the State Treasury of a segment of, or the entire debt of, companies created as a result of transformations of state enterprises.

g) Making available [to the interested parties] shares or contributions in companies created as a result of transforming state enterprises which belong to the State Treasury.

h) Proposing to issue permits for distribution free of charge or a special mode of payment for shares or contributions to companies created as a result of transforming state enterprises.

i) Issuing, with the consent of the minister of finance, permits to pay in installments for shares or contributions to companies created as a result of transformation of state enterprises.

j) Requesting the consent of the Council of Ministers to a special mode for selling shares or contributions of the State Treasury in companies created as a result of transforming state enterprises and the assets of liquidated state enterprises.

k) Increasing the initial or joint-stock capital of companies created as a result of transforming state enterprises, insofar as the State Treasury is their only partner or shareholder.

l) Requesting from the Council of Ministers the establishment of an extended period for making shares or contributions in companies created as a result of transforming state enterprises available [to the interested parties].

l) Transferring to banks or financial institutions shares or contributions of the State Treasury which were not made available before the settled deadline.

m) Exercising the powers referred to in Article 37, Paragraph 1, and Article 49, Paragraph 1, Point 1 of the law referred to in Section 1, Paragraph 1, Point 2, Letter b.

n) Carrying out actions associated with the privatization of municipal enterprises on the basis of agreements with gminas or unions of gminas.

o) Undertaking actions ensuring the continuity of accomplishing tasks within the framework of the comprehensive obligation of defense by enterprises undergoing transformation.

3) In the field of analyzing the status of ownership transformations:

a) Periodic reviews of the status of privatizing state enterprises.

b) Analysis of the capital market, as well as the analysis of trends of the demand and prices for the assets of liquidated state enterprise.

c) Analysis of actions aimed at reprivatization in conjunction with the process of privatization.

4) Cooperation with trade unions, associations, chambers of commerce, and other public organizations, and with the organs of government administration and self-government in the sphere of forming and developing private enterprises, the processes of privatization and reprivatization and their social consequences.

5) In the field of initiating the training and improvement of personnel in the field of privatization activities, securities market, and the development of private companies, as well as propagating experience and information in these fields:

a) Initiating and organizing training courses for management personnel of enterprises and members of employee councils, self-government employees, state officials, employees of advisory and consulting companies, and associations and other public organizations.

b) Initiating and coordinating training seminars offered by foreign organizations.

c) Cooperating with the minister of national education with a view of including the issues of ownership transformation in the curricula of secondary and higher schools.

d) Preparing candidate members of authorities for single-person partnerships of the State Treasury.

e) Initiating and participating in the preparation of press materials, and radio and TV programs of a factual and popular-scientific nature.

6) Accomplishing other tasks resulting from separate regulations.

1.2. The minister of ownership transformations acts in cooperation with the minister of foreign economic cooperation in developing the planks of state policy in the field of foreign cooperation in capital [transfers].

Paragraph 2. The minister of ownership transformations cooperates with the Council for Ownership Transformations in the fields outlined in separate regulations.

Paragraph 3. The chairman of the Agency for Foreign Investments reports to the minister of ownership transformations.

Paragraph 4. This Executive Order takes effect on the day of publication.

Chairman of the Council of Ministers: T. Mazowiecki

### **Order on Regional Antimonopoly Office Centers**

*91EP0205A Warsaw MONITOR POLSKI in Polish  
No 36 Item No 294, 1 Oct 90 p 327*

[Order of the President of the Antimonopoly Office, dated 28 September 1990, governing the creation of representations of the Antimonopoly Office, the designation of their seats and territorial and subject jurisdiction]

[Text] Pursuant to Article 18, Paragraph 1 of the Law dated 24 February 1990 on Counteracting Monopolistic Practices (Dz.U., No. 14, Item No. 88, and No. 34, Item No. 198) the following is decreed:

Paragraph 1. The following branches of the Antimonopoly Office are created, and the following seats are assigned to them:

1) Branch of the Antimonopoly Office in Bialystok for Bialystok, Lomza, Olsztyn, and Suwalki Voivodships.

2) Branch of the Antimonopoly Office in Gdansk for Gdansk, Elblag, Koszalin, Slupsk, and Szczecin Voivodships.

3) Branch of the Antimonopoly Office in Katowice for Katowice, Bielsko-Biala, Czestochowa, and Opole Voivodships.

4) Branch of the Antimonopoly Office in Krakow for Krakow, Kielce, Krosno, Nowy Sacz, Przemysl, Rzeszow, Tarnobrzeg, and Tarnow Voivodships.

5) Branch of the Antimonopoly Office in Lublin for Lublin, Biala Podlaska, Chelm, and Zamosc Voivodships.

6) Branch of the Antimonopoly Office in Lodz for Lodz, Piotrkow Trybunalski, Plock, Sieradz, and Skierniewice Voivodships.

7) Branch of the Antimonopoly Office in Poznan for Poznan, Bydgoszcz, Kalisz, Konin, Leszno, Pila, Torun, and Wloclawek Voivodships.

8) Branch of the Antimonopoly Office in Wroclaw for Wroclaw, Gorzow Wielkopolski, Jelenia Gora, Legnica, Walbrzych, and Zielona Gora Voivodships.

Paragraph 2. The following fall within the scope of responsibilities of the branches:

1) Monitoring compliance with regulations on counteracting monopolistic practices by economic entities.

2) Studying price formation in the environment of restricted competition.

Paragraph 3. The Antimonopoly Office accomplishes the tasks referred to in Paragraph 2 in Warsaw, Ciechanow, Ostroleka, Radom, and Siedlce Voivodships.

Paragraph 4. This Order takes effect on the day of publication.

President of the Antimonopoly Office: A. Fornalczyk

#### **Executive Order on Restricting Chemical, Explosive Exports**

91WC0041A Warsaw *DZIENNIK USTAW* in Polish  
No 76 Item No 450, 12 Nov 90 pp 1025-1026

[Executive Order of the Council of Ministers, dated 5 November 1990, governing the creation of temporary restrictions for the exports of chemical substances and dual-purpose explosive materials which may be used directly or indirectly to manufacture weapons]

[Text] Pursuant to Article 9 of the Customs Law dated 28 December 1989 (Dz.U., No. 75, Item No. 445) the following is decreed:

Paragraph 1. Restrictions are introduced effective until 31 December 1991 on the exports abroad of the chemical compounds and dual-purpose explosives which may be used directly or indirectly to manufacture weapons, and are enumerated in the annex to the present executive order.

Paragraph 2. The restrictions set forth in Paragraph 1 consist of the duty to obtain an export license.

Paragraph 3.1. A license to export dual-purpose chemical substances is issued if:

1) The importer provides assurances in the contract that the chemicals purchased will be used exclusively for purposes other than the production of chemical weapons.

2) A proper state organ in the importer country has issued a declaration in which it certifies that the pur-

chased substances will be used for purposes other than the production of chemical weapons.

3) A contract provides for a ban on the reexport or transfer of chemical substances by an importer to a third party.

3.2. The conditions set forth in Subparagraph 1, Point 2 are not required if a proper state organ in the importer country provides documentation to the effect that this country has assumed obligations under international law not to develop or produce chemical weapons, or to otherwise acquire, transfer, stockpile, or use them.

3.3. A license to export dual-purpose explosives is issued if:

1) An importer provides assurances in the contract that the explosives purchased will be used exclusively for the purpose of mining.

2) A contract provides for a ban on the reexport or transfer of explosives by the importer to a third party.

Paragraph 4. This Executive Order takes effect on the day of publication.

Chairman of the Council of Ministers: T. Mazowiecki

Annex to the executive order of the Council of Ministers dated 5 November 1990 (Item No. 450)

#### **List of Dual-Purpose Chemical Substances and Explosives to Which Export Restrictions Apply**

Item	Name	Designation in the Systemic Product List or the Foreign Trade Merchandise Assortment
1	Cyanogen chloride	1241-000
2	Carbonyl chloride	1241-561
3	Hydrogen cyanide	1221-841
4	Phosphorus oxychloride	1221-436
5	Phosphorus trichloride	1221-449
6	Chloropicrin (nitrotrichloromethane)	1241-881
7	Thiodiglicol	1241-919
8	Dimethylamine hydrochloride	1241-813
9	Chloroethanol	1241-371
10	Compounds with phosphorus methyl-group bonding	1241-989
11	Mining explosives in raw form	1333-1
12	Mining explosives	1333-2
13	Mining detonators	1333-3

**Order on Poppy, Hemp Cultivation Limitations**

91WD0300A Warsaw *DZIENNIK USTAW* in Polish  
No 72 Item No 428, 24 Oct 90 pp 985-986

[Order of the Ministry of Agriculture and Food Industries, dated 15 October 1990, governing the dimensions of designated areas under cultivation for poppy and hemp]

[Text] Pursuant to Article 12, Paragraph 3, Point 2 of the Law dated 31 January 1985 on Drug Prevention (Dz.U., No. 4, Item No. 15, and No. 25, Item No. 66; No. 33, Item No. 180, 1987; No. 35, Item No. 192, 1989; and No. 34, Item No. 198, 1990), the following order is issued:

Paragraph 1.1. In 1991, only poppy of the Przemko variety with low morphine content may be cultivated.

1.2. The area designated in 1990 for cultivation of poppy specified in Paragraph 1.1, carried out pursuant to contracts concluded with authorized entities of the collectivized economy is set at 4,210 hectares [ha] for the entire country, including the voivodships:

1) Bydgoszcz—570 ha, in which cultivation may be carried out in the following gminas: Dabrowa Biskupia, Gniewkowo, Inowroclaw, Janikowo, Jeziora Wielkie, Kcynia, Kruszwica, Mogilno, Pakosc, Rojewo, Strzelno, Zlotniki Kujawskie, and Znin.

2) Chelm—290 ha, in which cultivation may be carried out in the following gminas: Bialopole, Dorohusk, Dubienka, Hansk, Krasniczyn, Lesniowice, Rejowiec, Ruda Huta, Sawin, Siedliszcze, Wierzbica, Wola Uhruska, and Wyrzki.

3) Elblag—500 ha, in which cultivation may be carried out in the following gminas: Elblag, Gardeja, Kwidzyn, Lichnowy, Malbork, Miloradz, Nowy Dwor, Gdanski, Nowy Staw, Ostaszewo, Ryjewo, Sadlinki, Stegna, and Sztutowo.

4) Kalisz—415 ha, in which cultivation may be carried out in the following gminas: Blizanow, Mycielin, Stawiszyn, and Zelazkow.

5) Konin—415 ha, in which cultivation may be carried out in the following gminas: Babiak, Chodow, Dabie, Grabow, Grzegorzew, Klodawa, Ladek, Ostrowite, Przeczek, Pyzdry, Slupca, Sompolno, Strzalkowo, Swinice Warckie, Wierzbinek, Witkowo, and Zagorow.

6) Pila—80 ha, in which cultivation may be carried out in the following gminas: Bialoslawie, Budzyn, Chodziez, Czarnkow, Damaslawek, Drawsko, Golancz, Kaczory, Lipka, Lobzenica, Margonin, Polajewo, Rogozno, Ryczywol, Szamocin, Ujscie, Wapno, Wielen, Wronki, Wysoka, Wyrzysk, and Zakrzewo.

7) Plock—30 ha, in which cultivation may be carried out in the following gminas: Krosniewice, Kutno, and Leczyca.

8) Przemysl—400 ha, in which cultivation may be carried out in the following gminas: Chlopice, Cieszanow, Gac, Jaroslaw, Jawornik Polski, Kanczuga, Orly, Pawlosiow, Pruchnik, Przemysl, Przeworsk, Radymno, Rokietnica, Rozwienica, Sieniawa, Zarzecze, and Zurawica.

9) Wloclawek—780 ha, in which cultivation may be carried out in the following gminas: Badkowo, Boniewo, Brzesc, Kujawski, Byton, Dobrze, Dobrzyn nad Wisla, Koneck, Kowal, Lipno, Lubien Kujawski, Lubraniec, Osieczyny, Piotrkow Kujawski, Raciążek, Radziejow, Topolka, Wielgie, Wloclawek, and Zakrzewo.

10) Zamosc—730 ha, in which cultivation may be carried out in the following gminas: Dolhobyczow, Gorzkow, Grabowiec, Izbica, Jarczewo, Lubycza Krolewska, Miaczyn, Mircze, Telatyn, Terespol, Tyszowce, Uchanie, Ulhowek, and Zolkiewka.

Paragraph 2. The area designated in 1991 for cultivation of hemp carried out pursuant to contracts concluded with authorized entities of the collectivized economy is set at 2,975 hectares for the entire country, including the voivodships:

1) Chelm—200 ha, in which cultivation may be carried out in the following gminas: Krasnystaw, Krasniczyn, Lesniowice, Lopiennik Gorny, and Wojslawice.

2) Czestochowa—15 ha, in which cultivation may be carried out in the Olesno gmina.

3) Kielce—60 ha, in which cultivation may be carried out in the following gminas: Dzialoszyce, Gnojno, Kije, Michalow, and Pinczew.

4) Lublin—150 ha, in which cultivation may be carried out in the following gminas: Bychawa, Dzierzkowice, Jablonna, Krasnik, Krzczonow, Piaski, Rybczewice, and Zakrzewek.

5) Lomza—30 ha, in which cultivation may be carried out in the Zbojna gmina.

6) Ostroleka—50 ha, in which cultivation may be carried out in the Lelis and Lyse gminas.

7) Radom—60 ha, in which cultivation may be carried out in the following gminas: Ciepielow, Ilza, Kazanow, Oronsco, Skaryszew, Wolanow, and Zakrzew.

8) Tarnobrzeg—500 ha, in which cultivation may be carried out in the following gminas: Batorz, Chrzanow, Dzwola, Godziszow, Janow Lubelski, and Szastarka.

9) Walbrzych—600 ha, in which cultivation may be carried out in the following gminas: Cieplowody, Dzierzonow, Przeworno, Strzegom, Zabkowice Slaskie, and Ziebice.

10) Wroclaw—10 ha, in which cultivation may be carried out in the Lagiewniki gmina.

11) Zamosc—1300 ha, in which cultivation may be carried out in the following gminas: Frampol, Goraj, Grabowiec, Radechnica, Rudnik, Skierbieszow, Sulow, Turobin, Wysokie, Zakrzew, and Zolkiewka.

Paragraph 3. This Executive Order takes effect 14 days after the day of publication.

Minister of Agriculture and Food Industries: J. Bylinski

### **Executive Order on Voivodship Official Gazettes**

91EP0199A Warsaw *DZIENNIK USTAW* in Polish  
No 71 Item No 421, 15 Oct 90 pp 974-75

[Executive Order of the Council of Ministers, dated 10 October 1990, governing the principles and procedures for publication and dissemination of voivodship official gazettes]

[Excerpt] Pursuant to Article 26, Paragraph 3 of the Law dated 22 March 1990 on Voivodship Organs of the State General Administration (Dz.U., No. 21, Item No. 123), the following order is issued:

Paragraph 1.1. The voivodship governor shall publish the voivodship administrative journal, hereinafter referred to as the "official gazette," with the help of the voivodship administration.

1.2. The official gazette shall be edited by an organizational section of the voivodship administration whose duties shall include legal service to this administration.

1.3. The voivodship governor shall appoint the editor in chief of the official gazette, hereinafter referred to as the "editor in chief," from among the workers with higher legal or administrative degrees working in the organizational section specified in Paragraph 1, Section 2.

Paragraph 2.1. The title of the official gazette shall include the words "Official Gazette of the Voivodship" and the name of the voivodship.

2.2. The official gazette shall maintain serial numbers, items, and pages for each calendar year.

2.3. Each issue of the official gazette shall contain the date of its publication.

2.4. A sample of a first page of an official gazette is included in addendum No. 1 to this order.

Paragraph 3.1. The last page of the official gazette shall contain the name of the publisher (Paragraph 1, Section 1), the name and address of the editorial offices (Paragraph 1, Section 2), the given name and surname of the editor in chief (Paragraph 1, Section 3) and the clause: "Printed on order of Voivodship Governor (name) on (date) at (name and address of printing plant)."

3.2. The last page of the official gazette may also contain other information pertaining to its publication and distribution.

Paragraph 4.1. The voivodship governor shall set the circulation of the official gazette keeping in mind the need to ensure its general availability.

4.2. If necessary, the voivodship governor may order an additional printing of a required number of specific issues of the official gazette.

Paragraph 5.1. The official gazette shall publish:

1) Orders of the voivodship governor.

2) Acts of the President of the Council of Ministers revoking decrees and orders of the voivodship governor.

3) Gmina regulations within the time designated by a separate order.

4) Agreements on delegation of matters within their jurisdiction by the voivodship governor and the administrative director.

5) Statutes of inter-gmina associations.

6) Other legal acts and information (announcements) if these are covered by specific regulations or if the voivodship governor determines to do so.

5.2. The official gazette shall also publish legal regulations issued by voivodship organs of the special state administration pursuant to authorization contained in specific laws in force in the voivodship territory or any part of it.

5.3. The voivodship governor shall make the decision on publication in the official gazette of a legal act, information, or announcement (Paragraph 5, Section 1, Point 6), especially when this is indicated by the need for dissemination, availability as public knowledge, or establishment as public record.

Paragraph 6.1. The original shall serve as the source for publication of a legal document.

6.2. The editor in chief shall ascertain whether a legal document submitted for publication meets conditions for publication and whether there are legal impediments to its publication.

6.3. If there is evidence of infringements or other impediments to publication of a legal document, the voivodship governor shall return the document to the organ submitting it, indicating the evident infringements. This does not pertain to acts of the President of the Council of Ministers revoking decrees and orders of the voivodship governor.

Paragraph 7.1. Legal acts submitted for publication in the official gazette shall be published without delay.

7.2. A legal act must not be published in the official gazette after the date designated in that act for its becoming effective if the validity of the act depends on its publication in the official gazette.

7.3. The day of publication of the official gazette shall be determined taking into consideration the time required for printing and making it available for distribution.

Paragraph 8.1. The voivodship governor shall approve the text of the official gazette prepared for printing and shall order its publication, applying the formula specified in addendum No. 2.

8.2. A published official gazette shall be made available for distribution without delay.

Paragraph 9.1. The official gazette shall be distributed specifically through sale at fixed retail points and through the subscription system.

9.2. A permanent retail point for the official gazette shall be located at the headquarters of the voivodship administration. Other fixed retail points may also be established at regional administrative offices and gmina councils as well as at other locations as local needs dictate.

9.3. At the permanent retail point in the headquarters of the voivodship administration, an uninterrupted sequence of individual issues of the official gazette must be available.

9.4. The permanent retail point in the headquarters of the voivodship administration shall sell subscriptions.

Paragraph 10. The voivodship governor shall set the price of the official gazette, taking into account the costs of its publication and distribution.

Paragraph 11. One copy of the official gazette shall be provided free of charge to:

- 1) The president of the Council of Ministers.
- 2) The minister in charge of administration affairs.
- 3) The prosecutor general.
- 4) The chief of the Chancellery of the Sejm.
- 5) The chief of the Chancellery of the Senate.
- 6) The chief of the Chancellery of the President of the Republic of Poland.
- 7) The Ombudsman for Human Rights.
- 8) The president of the State Tribunal.
- 9) The president of the Supreme Court,
- 10) The president of the Supreme Administrative Court.
- 11) The president of the voivodship court,
- 12) Deputies and senators from the voivodship.
- 13) The chairperson of the self-government sejmik [diet].

14) Directors of regional offices with headquarters in the voivodship.

15) The chairperson of gmina councils located within the voivodship.

Paragraph 12. Information on the publication of each issue of the official gazette and the documents it contains shall be submitted to the mass media that appear in the voivodship.

Paragraph 13.1. Voivodship and regional offices shall maintain collections of the official gazettes available for public inspection during working hours of the offices.

13.2. The voivodship governor shall issue annually an index of legal regulations (acts) published in the official gazette.

Paragraph 14.1. The editor in chief shall maintain a file of the original texts which served as a basis for publication of documents in the official gazette.

14.2. Correction of errors in texts of documents published in the official gazette as against the text submitted for publication shall be published in the official gazette as a notice by the voivodship governor.

14.3. When an error appears, it must be corrected without delay.

Paragraph 15.1. In 1990, establishment of the sequence of issues, items, and pages of the official gazette shall comply with issues, items, and pages of the official gazette published pursuant to Article 71, Paragraph 1, of the Law dated 20 July 1983 on the System of People's Councils and Territorial Self-Government (Dz.U., No. 26, Item No. 183, 1988 and No. 34, Item No. 178, 1989).

15.2. The official gazette shall also publish details of acts of local law specified in:

1) Article 54, Paragraph 1 of the Law dated 22 March 1990 on Territorial Organs of General State Administration (Dz.U., No. 21, Item No. 123).

2) Article 31, Paragraphs 1 and 2 of the Law dated 10 May 1990—Regulations Introducing the Law on Territorial Self-Government and the Law on Self-Government Workers (Dz.U., No. 32, Item No. 191 and No. 43, Item No. 253).

Paragraph 16. In conjunction with Article 31, Paragraph 5 of 10 May 1990, Regulations Introducing the Law on Territorial Self-Government and the Law on Self-Government Workers (Dz.U., No. 32, Item No. 191 and No. 43, Item No. 253), Resolution No. 61 of the Council of Ministers dated 13 April 1984 in the matter of principles and procedure of publication and distribution of voivodship official gazettes is revoked (MONITOR POLSKI No. 12, Item No. 85).

Paragraph 17. This Executive Order takes effect on 2 November 1990.

Chairman of the Council of Ministers: T. Mazowiecki  
[passage omitted]

**Amendment of Land Management, Real Estate  
Expropriation Law**

91EP0207A Warsaw *DZIENNIK USTAW* in Polish  
No 79 Item No 464, 20 Nov 90 pp 1073-1083

["Text" of Law dated 29 September 1990 governing  
amendments to the Law on Land Management and Real  
Estate Expropriation]

[Text] Article 1. The following amendments are incor-  
porated in the Law dated 29 April 1985 on Land  
Management and Expropriation of Real Estate (Dz.U.,  
No. 14, Item 74, 1989; No. 29, Item 154, 1989; No. 14,  
Item 90, 1990; and No. 34, Item 198, 1990):

1) Article 2 is deleted.

2) Article 3 is reworded as follows:

"Article 3.1. Management of the land belonging to the  
State Treasury belongs within the competences of  
voivodes and district offices of the general government  
administration, while management of land owned by  
gminas [townships] belongs within the competences of  
gmina councils and gmina boards.

"3.2. Expropriation of real estate belongs within the  
competences of district offices of general government  
administration."

3) The following Article 3a is added after Article 3:

"Article 3a.1. The provisions applying to the gminas  
apply correspondingly to intergmina associations.

"3a.2. Premises as interpreted by the present Law also  
include garages that are component parts of buildings."

4) Article 4 is reworded as follows:

"Article 4.1. Land owned by the State Treasury or by  
gminas may be sold, given in perpetual or shorter usu-  
fruct, leased, or rented, to legal entities and individuals,  
with the proviso of Paragraphs 6 and 7. Land may also be  
sold or given in usufruct or leased or rented to groups of  
several persons.

"4.2. Land owned by the State Treasury may be  
transferred gratis, by way of an agreement, to the own-  
ership of a gmina, or its usufruct may be given gratis to  
the gmina in perpetuity or for shorter periods of time, or  
it may be loaned to the gmina, while gmina-owned land  
may be transferred gratis, by way of an agreement, to the  
ownership of the State Treasury or another gmina, or  
loaned thereto, or its usufruct may be granted in perpe-  
tuity to the State Treasury or another gmina; the provi-  
sions governing the transfer of property ownership apply  
to the said transfer of land.

"4.3. The land referred to in Paragraph 1 may be sold, or  
its usufruct may be transferred in perpetuity or for shorter  
periods of time to foreigners, or it may be leased or rented to  
them, with the proviso of Paragraph 7. In such cases sale of  
land or transfer of perpetual usufruct therefrom requires the  
approval of the Minister of Internal Affairs, with the proviso  
of the Law dated 24 March 1920 on the Acquisition of Real  
Estate by Foreigners (Dz.U., No. 24, Item 202, 1933; and  
No. 41, Item 325, 1988).

"4.4. Land owned by the State Treasury may be  
transferred gratis to administration by the state organi-  
zational entities which lack legal entity, while land  
owned by gminas may be similarly transferred gratis to  
municipal organizational entities which lack legal entity.

"4.5. The land referred to in Paragraph 1 may be loaned  
for a brief period of time to individuals and state and  
municipal organizational entities that lack legal entity.

"4.6. Legal entities and individuals engaging in char-  
itable, guardian, cultural, medical, educational, sports,  
or tourist activities may be sold the land referred to in  
Paragraph 1, or it may be transferred to them at a  
reduced price or gratis for perpetual usufruct or for  
usufruct over shorter periods of time, provided that this  
is not for profit-making purposes.

"4.7. Land owned by the State Treasury may be sold, or  
its perpetual or shorter usufruct may be transferred, or it  
may be leased or rented, to the diplomatic missions or  
consular offices of foreign countries and other representa-  
tions and institutions entitled to the same privileges and  
immunities by virtue of law, agreements, or universally  
binding international customs.

"4.8. The sale or transfer for perpetual usufruct of land  
owned by the State Treasury or gminas, as well as the sale  
of available buildings and other facilities and available  
premises owned by the State Treasury or gminas, takes  
place, with the proviso of Paragraphs 6 and 7 and Article  
28, Paragraph 4, by means of an auction organized in  
accordance with the guidelines set by the Minister of  
Land Use and Construction.

"4.9. Land owned by the State Treasury or gminas may be  
exchanged for the land owned by, or whose perpetual  
usufruct belongs to, legal entities or individuals."

5) The following Articles 4a and 4b are added after  
Article 4:

"Article 4a. Land owned by the State Treasury or gminas  
may be encumbered by restricted property laws. Such land  
may also constitute nonmonetary contributions (assets in  
kind brought as a contribution) to companies governed by  
commercial law.

"Article 4b. Real estate transferred for perpetual usu-  
fruct may be sold to the perpetual usufructuary of that  
estate for a price determined by the procedure defined in

Article 45. A corresponding application may be filed by the perpetual usufructuary, the board of a gmina, or a district office of the general government administration."

6) Article 5 is reworded as follows:

"Article 5. Matters not regulated by the present Law are governed by the provisions of the Civil Law Code."

7) Article 6 is deleted.

8) Article 7 is reworded as follows:

"Article 7. The sale of land, the transfer of perpetual usufruct therefrom, or the leasing or renting of such land, insofar as such land is owned by the State Treasury or gminas and located in the areas of:

"1) Seaports and marine littoral zones—requires consulting the office of the government administration proper for maritime affairs.

"2) Mining areas—requires consulting the proper district mining office.

"3) Mineral deposits subject to mining law, which remain undeveloped, as well as deposits of fossil minerals and raw materials not subject to mining law—requires consulting the office of government administration proper for geological affairs.

"4) National parks—requires consulting the concerned national park director."

9) Article 8 is reworded as follows:

"Article 8.1. State organizational units that lack legal entity, including offices of the general government administration, may acquire real estate by means of an agreement transferring it to the ownership of the State Treasury, while municipal organizational entities that lack legal entity may acquire real estate by means of an agreement transferring it to the ownership of the gmina.

"8.2. The real estate acquired by means of an agreement by state or municipal organizational units that lack legal entity remains under their administration."

10) Articles 9 and 10 are deleted.

11) In Article 11:

a) In Paragraph 2 the word "sale" is followed by the word "lease," and the adjective "state" is deleted in front of the expression "real estate."

b) In Paragraph 3 the expression "with the object of creating land reserves, equipping" is replaced each time with the expression "by means of an agreement or an expropriation, equipping."

c) Paragraph 4 is reworded as follows:

"4. The funds formed from the revenues derived from the real estate constituting:

"1) The property of the State Treasury—are at the disposal of the voivode.

"2) The property of the gmina—are at the disposal of the gmina council."

d) Paragraphs 5-7 are deleted.

12) In Article 12:

a) In Paragraph 2, Point 1, the expression "small" is replaced with the expression "other."

b) In Paragraphs 3 and 4 the expression "local office of state administration" is replaced each time with the expression "district office of the general government administration."

c) In Paragraph 5 the expression "of the State" is replaced with the expression "of the gmina," and following the expression "the expropriation of real estate" the comma is each time replaced with a period and the subsequent words are deleted.

13) Article 13 is reworded as follows:

"Article 13.1. Gminas may set aside a land reserve for the buildup of cities and villages and in particular for an organized construction of multifamily housing and of the associated structures and facilities in the areas designated for this purpose in local land-use plans.

"13.2. 'Organized construction of multifamily housing' is interpreted as the construction of multifamily apartment buildings of a housing-project nature, done on land developed for this purpose by the gmina.

"13.3. The boundaries of the land designated for organized construction of multifamily housing are determined by gmina councils by means of resolutions.

"13.4. Drafts of the resolutions referred to in Paragraph 3 are to be made public for viewing by interested persons for a period of 21 days at the offices of the gmina board, with said persons to be notified thereof in writing.

"13.5. During the abovementioned 21-day period interested persons may submit proposals, comments, and reservations concerning the draft of the resolution. When considering the resolution, the gmina council takes into consideration these proposals, comments, and reservations and decides how to resolve them. The decision is communicated in writing to the interested persons."

14) Article 14 is reworded as follows:

"Article 14. Gmina boards acquire land for reserves, order the necessary geodetic and design work as well as plans for parceling up the real estate, and develop such reserve land by ordering the installation of utility lines and mains."

15) In Article 15 Paragraph 1 is reworded as follows:



"Article 15.1. The boundaries subdividing the real estate acquired by the State Treasury or gminas are adopted as according to their existing legal status or, if that cannot be corroborated, as according to land and building records."

16) Articles 16 and 17 are reworded as follows:

"Article 16.1. Gmina councils may pass resolutions defining the boundaries of the land designated for concentrated construction of single-family housing in the areas specified for this purpose in local land-use plans.

"16.2. Built-up parts of real estate may not be included in the resolution referred to in Paragraph 1 without the consent of their owners or perpetual usufructuaries.

"16.3. Real estate located within the boundaries referred to in Paragraph 1 is subject to becoming integrated and subdivided into building lots.

"16.4. The initiation of proceedings to define the boundaries of the land designated for the construction of concentrated single-family housing takes place:

"1) On the request of the owners or perpetual usufructuaries of real estate who own more than 50 percent of the surface area of the land located within the boundaries referred to in Paragraph 1.

"2) Ex officio, if the surface area of the gmina-owned land accounts for more than 10 percent of the surface area of the land located within the boundaries referred to in Paragraph 1.

"16.5. Owners and perpetual usufructuaries of the land referred to in Paragraph 3 elect from among themselves a council of participants in the integration of the concerned real estate, with said council having advisory powers as regards the integration proceedings. The number of the council's members should depend on the number of participants in the integration, but it should not be more than 10 persons. If the number of participants in the integration is fewer than 10, the council is not elected.

"16.6. The 'construction of concentrated single-family housing' is interpreted as the construction, on land located within the boundaries referred to in Paragraph 1, in a spatially organized form, of at least 10 single-family houses.

"Article 17.1. The resolution passed by the gmina council concerning the boundaries of the land designated for the construction of concentrated single-family housing specifies:

"1) The geodetically determined boundaries of the land designated for the construction of concentrated single-family housing.

"2) A geodetic project for integrating the real estate and subdividing it into building lots.

"3) A registry of the real estate concerned, specifying its previous status and new status, inclusive of the building lots assigned to the participants in the integration in return for their contribution of the real estate they own or enjoy in perpetual usufruct.

"4) Kinds of infrastructure to be installed, schedule for its installation, and sources of funding.

"5) A decision on the amount to be paid in compensation for the land transferred to the gmina's ownership.

"6) Information on the amounts of frontage fees encumbering discrete building lots.

"17.2. The draft of the resolution referred to in Paragraph 1 is to be consulted with the participants in the integration and made public for viewing by interested persons for 21 days at the offices of the gmina board, with said persons to be notified thereof in writing.

"17.3. During the abovementioned 21-day period interested persons may submit proposals, comments, and reservations concerning the draft of the resolution. In their proposals the interested persons may specify the building lots which they would like to receive in return for the real estate they own if said real estate is affected by the integration and subdivision into building lots. The proposals, comments, and reservations submitted are subject to assessment by the council of integration participants.

"17.4. The gmina council in deciding on the resolution considers the opinion of the council of integration participants, examines the submitted proposals, comments, and reservations and decides how to resolve them, and communicates its decision in writing to interested persons."

17) The following articles 17a and 17b are added after Article 17:

"Article 17a.1. The surface area of every real estate parcel subject to integration and subdivision into building lots is reduced by the area that must be set aside for building squares and streets. This reduction takes place in direct proportion to the surface area of the real estate and to the aggregate surface area of the land set aside for building squares and streets.

"17a.2. In return for the real estate subject to integration and subdivision into building lots the previous owner or perpetual usufructuary is correspondingly assigned the ownership or perpetual usufruct of a number of building lots isolated from that real estate, with the aggregate surface area of these lots to correspond to the surface area of his real estate minus the area set aside for streets and squares as specified in Paragraph 1. If it is not possible to allot building lots with a strictly equivalent aggregate surface area, the difference is settled in cash. The exchange of the ownership, or of the right to the perpetual usufruct, of heretofore held real estate for the ownership, or for the right to the perpetual

usufruct, of the building lots takes place by virtue of the resolution referred to in Article 16, Paragraph 1.

"17a.3. The original owners or perpetual usufructuaries of the real estate should be, insofar as possible, allotted the building lots referred to in Paragraph 2 that are located entirely or partially on their original real estate.

"17.4. Land not included in the building lots allotted pursuant to the provisions of Paragraph 2 to the original owners or perpetual usufructuaries, and in particular the land set aside for building streets and squares, is, by virtue of law, transferred to the ownership of the gmina on the day on which the resolution of the gmina council defining the boundaries of the land designated for the construction of concentrated single-family housing takes effect.

"17a.5. Compensation for the land transferred to the ownership of the gmina as well as for facilities which the original owner or perpetual usufructuary is unable to remove, and also for trees and bushes, is paid in accordance with the guidelines binding for the expropriation of real estate. The expenses of the compensation are borne by the gmina.

"17a.6. Persons receiving the allotted building lots are obligated to pay frontage fees to the gmina depending on the growth in the value of these lots compared with the value of the real estate originally owned by these persons. When assessing the value of the originally owned real estate, no allowance is made for the value of the facilities, trees, and bushes referred to in Paragraph 5 if their owner or perpetual usufructuary has received compensation for them.

"Article 17b.1. The gmina council resolution referred to in Article 16, Paragraph 1, is the basis for making corresponding entries in the land registers, establishing new land registers for the land transferred to the gmina's ownership, and revising the land and buildings records.

"17b.2. The easements existing on the original real estate are abolished if they are not needed on the allotted building lots. The remaining easements and other encumbrances on the real estate are correspondingly transferred to the building lots allotted to the original owners or usufructuaries of that real estate.

"17b.3. Revisions of entries in land registers and the establishment of new such registers are performed on the recommendation of the gmina.

"17b.4. The cost of integrating the real estate parcels and subdividing them into building lots is borne by, with the proviso of Article 17A, Paragraph 5, the participants in the integration proceedings in proportion to the surface area of the affected real estate they own."

18) Article 18 is reworded as follows:

"Article 18. The Council of Ministers shall define in an executive order the guidelines and procedure for

determining the boundaries of the land designated for the construction of concentrated single-family housing, integrating real estate and subdividing it into building lots, exchanging the ownership or perpetual usufruct of real estate for the ownership or perpetual usufruct of allotted building lots, elections and activities of the council of participants in the integration proceedings, determining frontage fees, and calculating costs."

19) The title of Chapter 3 is altered as follows:

"Sale or transfer for perpetual or shorter usufruct, or lease, or rental, or lending of the real estate owned by the State Treasury or by gminas."

20) Article 19 is deleted.

21) Article 20 is reworded as follows:

"Article 20.1. The sale of or transfer of perpetual usufruct from real estate owned by the State Treasury or gminas requires concluding an agreement. The transfer of the right to perpetual usufruct by means of an agreement requires making a corresponding entry in the land register.

"20.2. The terms of the agreement defining the manner of utilization of land by the owner or perpetual usufructuary are subject to being made public in the land register."

22) Articles 22 and 23 are deleted.

23) In Article 24:

a) Paragraph 1 is reworded as follows:

"1. Premises in buildings owned by the State Treasury or gminas are sold together with the sale of or transfer of perpetual usufruct from a fractional part of the land that is needed for a rational utilization of the building."

b) In Paragraph 2 the expression "sold or" is inserted after the expression "fractional part of the land."

c) Paragraph 3 is reworded as follows:

"3. Until the sale by the State Treasury or a gmina of all the premises inside the buildings owned by the State Treasury or the gmina, the structural renovation or expansion of a building by individuals with the object of increasing the number of its rooms is decided upon by the district office of the general government administration with regard to buildings owned by the State Treasury, and by the gmina board with regard to buildings owned by the gmina. Construction permits are granted pursuant to the provisions of the Construction Law."

d) In Paragraph 4 the expression "local office of the state administration" is replaced with the expression "district office of the general government administration with regard to real estate owned by the State Treasury, and gmina board with regard to real estate owned by a

gmina," and the expression "jointly owned or" is inserted after the expression "building and."

e) The following Paragraph 4a is added after Paragraph 4:

"4a. In the event that, owing to the decision referred to in Paragraph 4, the share held in the ownership of a building or in the ownership or perpetual usufruct of land, is reduced, the owners of discrete premises are entitled to compensation in accordance with the guidelines binding for the expropriation of real estate. Contrariwise, in the event that the share increases, no additional fees are charged to the owners of discrete premises."

f) In Paragraph 5 the second sentence is deleted.

g) Paragraph 6 is reworded as follows:

"6. The sale of premises occupied by a tenant or leasee may occur only to said tenant or leasee or to a person close to that tenant or leasee and constantly cohabiting with him or her; the sale price is to be equal to the value of the premises as determined by the procedure defined in Article 44."

h) Paragraph 8 is reworded as follows:

"8. With respect to buildings owned by the State Treasury or by a gmina, the voivode or the gmina board, respectively, may define the criteria for designating for sale premises in these buildings."

i) In Paragraph 9 the comma after the expression "single-family" is deleted and the expression "premises in small residential buildings as well as in multifamily buildings" is replaced each time with the expression "or premises in residential buildings."

24) Article 25 is reworded as follows:

"Article 25. In the event of sale of or transfer of the right to perpetual usufruct from land on which stands a building designated as a historical landmark, the purchaser is obligated to reconstruct or renovate the facility within a time period specified in the contract, and to maintain it in a suitable condition."

25) Articles 26 and 27 are deleted.

26) Article 28 is reworded as follows:

"Article 28.1. The district office of the general government administration with respect to real estate owned by the State Treasury, or the gmina board with respect to real estate owned by the gmina, makes public a list of real estate parcels designated for sale or for transfer of perpetual or shorter usufruct or for lease or rental. That list is posted for six weeks at the offices of the district office of the general government administration or the gmina board.

"28.2. The list referred to in Paragraph 1 specifies:

"1) The real estate and the corresponding entry in land register.

"2) Designation of the real estate as according to land and buildings records.

"3) Surface area of the real estate.

"4) Description of the real estate.

"5) Purpose of the real estate as specified in the local land-use plan, and the manner in which it is utilized.

"6) Schedule for commencement and completion of construction.

"7) Form of sale or transfer of real estate.

"8) Price of land, building and installations, and premises.

"9) Fees and their schedule.

"10) Terms for revising the price of real estate and for revising the amounts of fees.

"28.3. Leasees or tenants of premises are notified in writing that the premises have been designated for sale and that they have priority in purchasing the premises they occupy.

"28.4. Former owners of real estate appropriated by the State Treasury have priority in purchasing it if they offer a price equal to the value of that real estate as determined in accordance with Article 44. The provisions of Paragraph 3 apply correspondingly, unless the address of the former owner of real estate is unknown."

27) The following Article 28a is added after Article 28:

"Article 28a.1. The agencies referred to in Article 28, Paragraph 1, publicly announce scheduled auctions not earlier than until after the expiration of the period of the public posting of the list of real estate parcels. The auction announcement contains the information provided in the list referred to in Article 28, Paragraph 2. It does not mention the real estate whose purchase is requested by the persons referred to in Article 28, Paragraph 4, or the real estate referred to in Article 4, Paragraphs 5, 6, and 7.

"28a.2. If the sale of or transfer of perpetual usufruct from real estate has failed to take place during the first auction, a second auction is organized upon reducing the initial auction price of the real estate established during the first auction.

"28a.3. If the sale of or transfer of perpetual usufruct from real estate has failed to take place during the second auction, the real estate may be sold or assigned for perpetual usufruct without carrying out a third auction.

"28a.4. The agencies referred to in Article 28, Paragraph 1, are obligated to notarize the real estate purchase contract with the buyer within a month from the date a buyer is found. If the person identified as the buyer of

the real estate fails to appear on the scheduled day and hour at the notarial office, these agencies may refrain from concluding the contract."

28) Article 29 is reworded as follows:

"Article 29.1. The legal entity of individual to whom perpetual usufruct from land owned by the State Treasury or a gmina is transferred, or the legal heir of that entity or individual, is obligated to utilize the land in the manner and within the schedule specified in the contract, if such schedule is indeed specified. If utilizing the land means building it up, the laying of foundations is interpreted as commencing the construction, and the erection of the vacant building is interpreted as completing it.

"29.2. The schedule referred to in Paragraph 1 may be prolonged if failure to adhere to it was caused by circumstances outside the control of the buyer of the land."

29) In Article 20, Paragraph 2, the expression "Local office of the state administration" is replaced each time "District office of the general government administration with respect to the land owned by the State Treasury, or the gmina board with respect to gmina-owned land."

30) In Article 31

a) In Paragraph 1 the twice-employed expression "decision" is replaced with the expression "contract."

b) In Paragraph 2 the expression "to the local office of the state administration" is each time replaced with the expression "to the district office of the general government administration with respect to land owned by the State Treasury, and to the gmina board with respect to gmina-owned land."

c) In Paragraph 4 the expression "or the proper local office of the state administration" is replaced each time with the expression "and also the district office of the general government administration or the gmina board."

31) Article 32 is reworded as follows:

"Article 32. The provisions of Articles 29 and 31 apply correspondingly to the land sold by the district offices of the general government administration or by the gmina boards."

32) In Article 33 the expression "specified deadlines" is replaced each time with the expression "specified deadline," and the expression "their nonprolongation, the local office of the state administration may demand" is replaced each time with the expression "its nonprolongation, the district office of the general government administration with respect to the real estate purchased from the State Treasury, and the gmina board with respect to the real estate purchased from a gmina, may demand," while the expression "to the benefit of the State" is replaced each time with the expression "correspondingly to the benefit of the State Treasury or the gmina."

33) Article 34 is deleted.

34) Article 35 is reworded as follows:

"Article 35. In the event of the lease or rental of land owned by the State Treasury or by a gmina, the previous leasee or tenant of that land has priority in receiving it if he or she has leased or rented that land for a period of more than 10 years."

35) In Article 36:

a) In Paragraph 1 the term "or a gmina" is inserted each time after the expression "a state organizational entity," and the term "state-owned" is replaced each time with the expression "constituting the property of the State Treasury or of a gmina."

b) In Paragraph 3 the expression "acquired from the State" is deleted.

c) The following Paragraph 3a is added after Paragraph 3:

"3a. The provisions of Paragraph 3 do not apply to nonresidential premises. The share of owners of nonresidential premises in defraying the expenditures on maintenance and repair is determined by an agreement concluded among the owners of all the premises."

d) In Paragraph 4, Point 1), the expression "state-owned" is replaced each time with the expression "constituting the property of the State Treasury or of a gmina."

e) In Paragraph 4, Point 2), the expression "or gminas" is inserted each time after the expression "state organizational entities" and the expression "state-owned" is replaced each time with the expression "constituting the property of the State Treasury or of a gmina."

f) In Paragraph 5 the expression "state-owned" is replaced each time with the expression "constituting the property of the State Treasury or of a gmina."

36) The title of Chapter 4 is changed as follows:

"Administration of the Real Estate Owned by the State Treasury or Gminas."

37) In Article 38:

a) Paragraphs 1 and 2 are reworded as follows:

"1. State and municipal organizational entities which lack legal entity status administer the land allocated to them or acquired by them, jointly with the buildings and structures located on that land and linked permanently thereto, when such land is owned by the State Treasury or a gmina.

"2. State organizational entities which lack legal entity status receive State Treasury-owned land to administer on the basis of a decision of a district office of the general government administration, or on the basis of an agreement, concluded with the permission of that office, for transfer of land between state organizational entities which lack legal entity status, or on the basis of the agreement referred to in Article 8, Paragraph 2. This provision applies correspondingly to municipal organizational entities which lack legal entity status."

b) In Paragraph 3 the first sentence is altered: "State and municipal organizational entities which lack legal entity status avail themselves of the real estate they administer in accordance with the requirements of proper management."

c) Paragraph 4 is deleted.

38) Article 39 is deleted.

39) In Article 40 the expressions "and 39" and "or usufruct" are deleted, while the expression "may be defined" is replaced with the expression "is defined."

40) In Article 41:

a) In Paragraph 1 the expression, used twice, "of the right to usufruct" is replaced with the expression "of the administration," and the expression "of the usufructuary" is replaced with the expression "of the administrator."

b) In Paragraph 2:

—The expression "The local office of the state administration" is each time replaced with the expression "The district office of the general government administration with respect to the land owned by the State Treasury, and the gmina board with respect to gmina-owned land," while the expression "the right to the usufruct" is replaced each time with the expression "the administration."

—In Point 1) the expression "the usufruct" is deleted and the expression "the usufructuary" is replaced with the expression "the administrator."

—Point 3) is reworded as follows:

"3) If the land-use plan is modified so as to prevent the continued utilization of the real estate or its part in the traditional manner, and if the administrator has not consented to altering the mode of utilization of the real estate."

c) Paragraph 3 is deleted.

d) In Paragraph 4, Points 1) and 2), the expression "the voivodship-level local office of the state administration with general competences" is replaced with the expression "the voivode."

41) Article 42 is reworded as follows:

"Article 42. The state or municipal organizational entity which lacks the status of a legal entity, but which administers a parcel of real estate is obligated to submit correspondingly to the district office of the general government administration or to the gmina board a request for the transfer thereto entirely or partially of the real estate which has become dispensable."

42) In Article 43 the expression "and the usufruct from state real estate" is replaced each time with the expression "the real estate owned by the State Treasury or by a gmina," while the expression "state organizational entities" is replaced each time with the expression "state or municipal organizational entities which lack the status of legal entity."

43) The title of Chapter 5 is altered as follows:

"Determining the Prices of the Real Estate Owned by the State Treasury or by a Gmina, and Determining the Fees Charged to Perpetual Usufruct, as Well as Administrative and Other Fees."

44) Article 44 is reworded as follows:

"Article 44.1. Experts summoned and registered by the voivode on the voivodship list, or other persons authorized to appraise real estate, determine the value of undeveloped and developed land as well as the value of the buildings and other structures located on that land.

"44.2. The value of land is appraised with allowance for the current land prices, actual outlays, the purpose of the land as specified in the local land-use plan, the location of the land and the extent to which it is developed in the sense of being provided with utility and other lines and mains, and the extent of utilization of that land.

"44.3. The value of the buildings and other structures on the land in question is determined according to the cost of their reproduction minus the depreciation rate.

"44.4. The value of the buildings and other structures designated for dismantling or liquidation is determined according to the value of the dismantled materials."

45) Article 45 is reworded as follows:

"Article 45.1. The price of the land and the buildings and structures lying thereon is determined in an amount of not less than their value as appraised pursuant to Article 44.

"45.2. The price of the land and the buildings and structures lying thereon, when sold or when the right to their perpetual usufruct is transferred by means of an auction, is the price attained during that auction.

"45.3. Information on the prices referred to in Paragraph 1 is provided in the list referred to in Article 28, Paragraph 2."

46) In Article 46:

a) Paragraphs 1-3 are reworded as follows:

"1. The amount of the annual fee for perpetual usufruct or administration of the land earmarked for the construction of housing, schools, medical and preventive health care centers, and social welfare and charitable institutions, as well as of the builtup land in residential zones, is one percent of the price fixed pursuant to Article 45.

"2. The amount of the annual fee for administering the land granted for purposes of national defense and national security is 0.3 percent of the price appraised on the basis of Article 45. The Council of Ministers shall determine in an executive order the kinds of land considered as indispensable to national defense and national security.

"3. The amount of the annual fee for the perpetual usufruct from or administration of undeveloped land or of developed land not mentioned in Paragraph 3 is three percent of the price appraised on the basis of Article 45. This fee may be increased by an executive order of a voivode with respect to the land owned by the State Treasury, or by a resolution of a gmina council with respect to gmina-owned land."

b) In Paragraph 4 the expression "The local office of the state administration" is replaced each time with the expression "The district office of the general government administration with respect to the land owned by the State Treasury, or the gmina board with respect to gmina-owned land."

c) In Paragraph 5 the expression "perpetual usufruct, administration, and usufruct" is replaced each time with the expression "perpetual usufruct and administration."

47) In Article 47 Paragraph 1 is reworded as follows:

"1. Fees for perpetual usufruct and for administration are fixed in the form of annual fees, with the proviso that the first-time fee should not be greater than 25 percent or lower than 15 percent of the price. Information on the amount of the fee for perpetual usufruct is contained in the list referred to in Article 28, Paragraph 2."

48) The following Articles 47a and 47b are inserted after Article 47:

"Article 47a.1. The prices of land, buildings, and other installations, as well as the fees for the land assigned for perpetual usufruct are fixed in the agreement referred to in Article 20, Paragraph 1.

"47a.2. The prices of the land, buildings, and other installations owned by the State Treasury or by a gmina, as well as the fees for administering that land, buildings, and other installations, are determined correspondingly by the district office of the general government administration or the gmina board, in its decision to assign for administration the land, buildings, and other installations.

"Article 47b.1. The prices of both undeveloped and builtup land, which serve as the basis for assessing the

fees, may be updated in accordance with the changes in the value of that land, but not over periods of less than one year.

"47b.2. Updating the price of land transferred for perpetual usufruct is accomplished by means of a declaration by the district office of the general government administration concerning the land owned by the State Treasury, or a declaration by the gmina board concerning gmina-owned land.

"47b.3. Updating the price of administered land is accomplished by means of a declaration by the district office of the general government administration concerning the land owned by the State Treasury, or a declaration by the gmina board concerning gmina-owned land."

49) In Article 49 Paragraph 1 is reworded as follows:

"1. If a land-use plan, an agreement, or a ruling entails the obligation of commencing or completing the building-up of a land parcel within a specified limit of time, or the obligation of otherwise utilizing said land, if that obligation is not carried out within the specified time limit, the district office of the general government administration with respect to land owned by the State Treasury or the gmina board with respect to gmina-owned land may assess additional annual fees irrespective of the annual fees ensuing from the provisions of the law and the regulations governing the protection of arable and forested land. The laying of foundations is interpreted as the commencement of building-up."

50) Article 50 is reworded as follows:

"Article 50.1. The provisions contained in this Chapter apply if public purposes cannot be accomplished in some way other than by curtailing or voiding the right to the ownership of real estate on behalf of the State Treasury or on behalf of a gmina, and if the real estate cannot be acquired by means of an agreement.

"50.2. Real estate may be expropriated by the State Treasury or by a gmina if it is indispensable for the purposes of:

"1) The construction and maintenance of roads and public transportation facilities, as well as of the structures and facilities needed to assure public communications and environmental protection, along with the construction and maintenance of premises for public offices, municipal water intakes, and liquid waste treatment facilities, and the erection of flood levees.

"2) The construction and maintenance of elementary schools, hospitals, foster homes, sanitation facilities, and cemeteries.

"3) The construction and maintenance of the structures and facilities needed for national defense and public order, including the construction and maintenance of penal institutions and juvenile reformatories.

"4) Organized multifamily housing construction.

"5) Other obvious public purposes.

"50.3. The initiation of expropriation proceedings must be preceded by negotiations with the owner of the real estate concerning its purchase by way of an agreement."

51) The following Article 50a is added after Article 50:

"Article 50a.1. The expropriation of real estate consists in the withdrawal or curtailment by means of a ruling of the right of ownership or other property rights concerning the real estate.

"50a.2. The expropriation may extend to the entirety or a part of the real estate in question.

"50a.3. In the event that part of a real estate parcel is needed for public purposes, on the owner's demand the expropriation may be extended to the entire parcel, should the expropriation cause the remaining part of the parcel to become unsuitable for rational utilization for previous purposes.

"50a.4. Expropriated real estate may not be used for purposes other than those specified in the expropriation ruling, unless it cannot be returned by the procedure defined in Article 74 owing to the absence of consent by previous owner or his legal heir."

52) In Article 51, Paragraph 1, the expression "the local office of the state administration" is replaced each time with the expression "the district office of the general government administration."

53) Article 52 is reworded as follows:

"Article 52.1. The initiation of expropriation proceedings may take place ex officio or on the recommendation of the gmina board only if the real estate cannot be purchased by the regular procedure (agreement).

"52.2. The gmina board is obligated to append to its recommendation for the expropriation of real estate a report on the outcome of the negotiations held with its owner concerning its acquisition by the regular procedure (agreement).

"52.3. Expropriation proceedings may be initiated following the ineffective elapse of the time limit on the negotiations referred to in Paragraph 1, as specified in writing by the district office of the general government administration to the owner or perpetual usufructuary of the concerned real estate. Said time limit may not be shorter than three months."

54) Article 53 is reworded as follows:

"Article 53.1. Real estate may be expropriated only on behalf of the State Treasury or a gmina.

"53.2. Land owned by the State Treasury may not be expropriated."

55) In Article 54:

a) In Paragraph 1, Point 7), the expression "including the possibility of providing replacement real estate referred to in Article 65" is inserted each time after the expression "the conclusion of an agreement."

b) In Paragraph 2, Point 1), the expression "or, in the event of the expropriation of land for the purpose of including it in land reserves, an extract from (copy of) the concerned part of the land-use plan" is deleted.

56) In Article 56 Paragraph 3 is deleted.

57) In Article 57, Paragraph 1, the expression "the local office of the state administration" is replaced each time with the expression "the district office of the general government administration" and the word "state" is deleted.

58) Article 58 is reworded as follows:

"Article 58.1. The expropriation of real estate entails the payment of compensation. The compensation is paid in a lump sum.

"58.2. The compensation is paid within not more than 14 days from the day on which the ruling on expropriation, or the ruling referred to Article 56, Paragraph 4, becomes final.

"58.3. The compensation specified in the ruling is subject to value reappraisal on the day it is paid.

"58.4. The consequences of a delay or postponement of the payment of compensation are correspondingly governed by the provisions of the Civil Law Code."

59) In Article 59:

a) Paragraph 1 is reworded as follows:

"1. The compensation should be equivalent to the value of the expropriated real estate."

b) In Paragraphs 2 and 3 the expression "the guidelines" is deleted.

c) Paragraph 4 is reworded as follows:

"4. As the need arises, the compensation is determined after consulting experts or other persons referred to in Article 44, Paragraph 1."

60) In Article 62:

a) In Paragraph 1 the expression "average" is deleted and the expression "socialized" is replaced with the expression "free-market."

b) In Paragraph 3 the expression "determined in terms of sales prices" is deleted.

61) Article 63 is reworded as follows:

"Article 63.1. The compensation paid for the structures and fixed installations standing on the land in question should correspond to the cost of their reproduction minus the extent of their depreciation on the day of the expropriation.

"63.2. The provision of Paragraph 1 applies correspondingly to separately owned premises on the land.

"3. The Council of Ministers may, in particularly warranted cases, define in an executive order guidelines for determining compensation on terms more favorable than those specified in Paragraph 1."

62) Article 64 is deleted.

63) In Article 65:

a) In Paragraph 1 the expression "constituting a farm" is deleted each time.

b) In Paragraph 2 the third sentence is deleted.

c) In Paragraph 3 the expression "defined in Article 59" is replaced each time with the expression "binding when determining the compensation for expropriated real estate." 64) In Article 67, Paragraphs 1 and 2, the expression "of the State" is replaced each time with the expression "of the State Treasury or a gmina."

65) In Article 69:

a) In Paragraph 1 the expression "of the State" is replaced each time with the expression "of the State Treasury or on behalf of a gmina."

b) The following Paragraph 3 is added:

"3. Until it is utilized for the purpose for which it had been acquired, the expropriated real estate should be, on the request of its former owner, left in his possession, on terms to be determined in a leasing agreement."

66) In Article 70, Paragraph 3, the expression "the local office of the state administration" is replaced each time with the expression "the district office of the general government administration."

67) In Article 71 the expression "The local office of the state administration" is replaced each time with the expression "The district office of the general government administration."

68) Article 72 is deleted.

69) In Article 73 the second sentence is deleted.

70) In Article 74:

a) In Paragraph 1 the expression "justifying the expropriation" is each time replaced with the expression "specified in the expropriation ruling," and the second sentence is deleted.

b) In Paragraph 2 the expression "the local office of the state administration" is each time replaced with the expression "the State Treasury or the gmina on whose behalf the expropriation was carried out."

c) The following Paragraph 4 is added:

"4. The provisions of Paragraph 1 also apply to the real estate seized by the State Treasury under the provisions of the Law dated 31 January 1961 on Construction Sites Within Village Areas (Dz.U., No. 27, Item 216, 1969; No. 49, Item 312, 1972; and No. 22, Item 99, 1985) and the Law dated 6 July 1972 on Sites of Single-Family and Farmstead Construction as Well as on the Subdivision of Real Estate in Cities and Settlements (Dz.U., No. 27, Item 192, 1972; No. 48, Item 282, 1973; and No. 99, Item 22, 1985). The provisions of Paragraph 1 also apply to the real estate expropriated on behalf of state and cooperative agricultural enterprises, as well as to the land expropriated under separate regulations in connection with the needs of the Tarzanski National Park."

71) In Article 75:

a) In Paragraph 1 the expression "the local office of the state administration" is each time replaced with the expression "the district office of the general government administration," and the following second sentence is added: "The granting of the permit should be preceded by negotiations with the owner of the real estate in order to obtain his or her consent to the performance of the specified operations."

b) Paragraph 2 is reworded as follows:

"2. The owner of the real estate is obligated to provide access to the land for the persons and organizations obligated to perform the activities relating to the operation and maintenance of the conduits and installations referred to in Paragraph 1."

72) In Article 76, Paragraph 1, the expression "The local office of the state administration" is each time replaced with the expression "The district office of the general government administration," and the expression "and municipal" is inserted each time after the expression "state."

73) Article 77 is deleted.

74) Article 78 is reworded as follows:

"Article 78. In the event of a superior force or a sudden need to prevent the occurrence of substantial damage, the voivode may permit the temporary occupation of real estate for a period of not more than six months."

75) In Article 79 the comma and the expression "Article 77 Paragraph 1" following the expression "Article 76 Paragraph 1" are deleted.

76) In Article 80:



a) In Paragraph 1 the comma and the expression "Article 77 Paragraph 1" following the expression "Article 76 Paragraph 1" are deleted.

b) In Paragraph 2 the expression "the local office of the state administration" is each time replaced with the expression "the district office of the general government administration."

77) In Article 82:

a) Paragraph 1 is reworded as follows:

"1. The gmina board has the right of preemption in the event of the sale of real estate that had previously been purchased from the State Treasury or the gmina or transferred for perpetual usufruct, if said real estate has not become builtup on the basis of a construction permit."

b) In Paragraph 3 the expression "the State Treasury" is replaced with the expression "the gmina."

78) In Article 83 the expression "the local office of the state administration" is each time replaced with the expression "the district office of the general government administration."

79) In Article 84:

a) In Paragraph 1 the expression "the local office of the state administration" is replaced with the expression "the gmina board."

b) In Paragraph 3 the expression "the local office of the state administration" is replaced with the expression "the gmina board" and the expression "of the State" is replaced with "of the gmina."

80) Article 86 is deleted.

81) In Article 87:

a) In Paragraph 2 the expression "state" is replaced with the expression "constituting the property of the State Treasury or of a gmina," and the expression "the local offices of the state administration" is replaced with the expression "the district offices of the general government administration concerning land owned by the State Treasury, or the gmina board concerning gmina-owned land."

b) In Paragraph 3 the expression "the local office of the state administration" is deleted.

82) In Article 88:

a) In Paragraph 1 the expression "the property of the State" is replaced with "the property of the State Treasury."

b) In Paragraph 2 the expression "28" and the comma following it are deleted.

c) In Paragraph 6 the expression "the property of the State" is replaced with "the property of the State Treasury."

83) In Article 89, Paragraph 2, the expression "the basic-level local office of the state administration" is replaced with "the district office of the general government administration with respect to land owned by the State Treasury, or the gmina board with respect to gmina-owned land."

84) In Article 90, Paragraph 2, the following sentence is added:

"As part of the compensation awarded, the previous owner or his legal heirs may be granted for perpetual usufruct a lot suited for building a single-family home."

85) In Article 91, Paragraph 1, the expression "state" is replaced with "State Treasury."

86) Articles 92 and 93 are deleted.

87) In Article 94, Paragraph 1, the expressions "binding on the day the present Law takes effect" and "the houses and buildings mentioned in Article 23, Paragraph 23, Point 1), letter a)" as well as the second sentence are deleted, while the expression "Article 29" is replaced with "the ruling on the subdivision."

88) In Article 97:

a) In Paragraph 2 the expression "the voivodship-level local office of the state administration, upon consulting the Minister-Director of the Office for Religious Affairs" is replaced with "the voivode, upon consulting the Minister-Chief of the Office of the Council of Ministers."

b) The following Paragraph 4 is added:

"4. The perpetual usufruct from land transferred to religious associations for teaching the catechism is fee-exempt."

Article 2.1. Land owned by the State Treasury or by a gmina (or an intergmina association), exclusive of the land held by the State Land Fund, which, on the day the present Law takes effect, is being administered by state legal entities other than the State Treasury, becomes on that day, by virtue of law, the object of perpetual usufruct. This does not infringe upon the rights of third parties. The rights of state farms to the State Treasury-owned land they administer on the day the present Law takes effect are regulated by a separate decree.

2.2. Buildings and other facilities located on the land owned by the State Treasury or by gminas (or intergmina associations) which are being administered by legal entities on the day the present Law takes effect, become on that day, by virtue of law, the property of these entities. The acquisition of title to ownership by these entities is

accomplished in return for the payment of a fee if these facilities were not built or acquired with the funds of those entities.

2.3. The acquisition of the right to perpetual usufruct from the land referred to in Paragraph 1 as well as of the ownership of the buildings and other facilities referred to in Paragraph 2 is affirmed by a ruling of the voivode with respect to the real estate owned by the State Treasury, or by a ruling of a gmina board with respect to gmina-owned real estate. Said rulings also specify the period of the perpetual usufruct, upon adhering to the guidelines defined in the provisions of Article 236 of the Civil Law Code.

2.4. In the case of land owned by the State Treasury or by gminas (or intergmina associations), whose usufruct is enjoyed on the day the present Law takes effect by legal entities or organizations that lack legal entity, the usufruct from that land remains enjoyed by such entities and organizations.

2.5. In the case of buildings and other facilities located on land owned by the State Treasury or by gminas (or intergmina associations), whose usufruct is enjoyed on the day the present Law takes effect by legal entities or organizations that lack legal entity, the usufruct from that land remains enjoyed by such entities and organizations.

2.6. The fees paid for administering buildings and other facilities are credited to the purchase price of the title referred to in Paragraph 2, upon deducting the benefits gained by the usufructuary.

2.7. The provision of Paragraph 6 applies correspondingly in the event of the sale of buildings and other facilities to the existing usufructuary.

2.8. The usufruct referred to in Paragraphs 4 and 5 is governed by the provisions governing administration.

2.9. The provisions of Paragraphs 1 and 2 do not infringe upon the provision of Article 8 of the Law dated 10 May 1990 on the Regulations Introducing the Law of Territorial Self-Government as well as the Law on Self-Government Employees (Dz.U., No. 32, Item 191, 1990, and No. 43, Item 253, 1990).

Article 3. The real estate acquired by state legal entities following the effective date of the Law dated 31 January 1989 on Amending the Decree on the Civil Law Code (Dz.U., No. 3, Item 11) constitutes the property of these entities as of the moment of its acquisition.

Article 4. The land owned by the State Treasury or by the gmina (intergmina association) which is on the effective date of the present Law being administered by state or municipal organizational entities that lack legal entity status, remains administered by these entities.

Article 5.1. Proceedings instituted but not ended by a final ruling prior to the effective date of the present Law are continued under its provisions.

5.2. Final rulings on fees, issued prior to the effective date of the present Law, retain their validity. In such cases the provisions of Article 47b apply.

5.3. Until 31 December 1990 no fees are charged for the administration of the land transferred for the purposes of national defense and national security.

Article 6. Concerning the land under perpetual or other usufruct, or under administration, for which, prior to the effective date of the present Law, no deadline for commencing or completing construction had been fixed, the district office of the general government administration with respect to the land owned by the State Treasury, or the gmina (intergmina association) board with respect to the land owned by the gmina (intergmina association), specifies that deadline by issuing a ruling on taking into consideration the nature of the investment and the degree of development of the land if no such deadline has been fixed in an agreement reached within six months from the effective date of the present Law.

Article 7. Any partial payments of compensation for expropriated real estate that have not been disbursed prior to the effective date of the present Law are disbursed in a lump sum, upon reappraisal of the value of that real estate, within not more than six months from the said effective date. Interest is paid for delays or postponements of the payment of such compensation, on the basis of the guidelines provided in the Civil Law Code.

Article 8.1. A person who has, on the basis of a construction permit, built with his or her own funds a garage on land owned by the State Treasury or by a gmina (or an intergmina association), as well as his or her legal heir, has the right to acquire the title to that garage or to receive land in perpetual usufruct if he or she holds the tenancy to that garage. The acquisition of the title to the garage is gratis, on the demand of the concerned party.

8.2. The acquisition of the title to a garage built on the basis of a construction permit specifying the location and time hinges on the consonance between said location and the decisions of the local land-use plan binding at the time when the title is applied for.

Article 9.1. A person who, in a building owned by the State Treasury or a gmina, has performed, with the owner's consent, the renovation or expansion of the building resulting in additional premises, has his or her expenses on the renovation or expansion credited to the purchase price of the premises minus the extent of their depreciation.

9.2. The provision of Paragraph 1 does not apply if the lease or rental agreement specifies otherwise.

Article 10. In Article 599, Paragraph 2, and in Article 600, Paragraph 2, of the Civil Law Code the expression "or to the gmina" is added each time after the expression "to the State Treasury."

Article 11. In Article 1025, Paragraph 1, Point 4), of the Civil Law Code the expression "of the State" is replaced with the expression "of the State Treasury or a gmina."

Article 12. The Minister of Land Use Management and Construction shall publish in *DZIENNIK USTAW* the uniform text of the Law on Land Management and Real Estate Expropriation with allowance for the revisions ensuing from the regulations announced prior to the day the uniform text is issued, and upon applying a sequential numbering of articles, paragraphs, and points.

Article 13. The present Law takes effect after 14 days from the date of its publication.

President of the Republic of Poland: W. Jaruzelski

#### **Resolution on Commission for Minorities Affairs**

91EP0204A Warsaw *MONITOR POLSKI* in Polish  
No 34 Item No 274, 20 Sep 90 pp 306-307

[Resolution No. 142 of the Council of Ministers, dated 7 September 1990, governing the establishment of the Commission for National Minorities Affairs]

[Text] To ensure appropriate conditions for the realization of human rights specified in Article 81 of the Constitution of the Republic of Poland and to increase the efficiency of the operations of the state administration in protecting national and ethnic minority rights, the Council of Ministers resolves as follows:

Paragraph 1.1. A Commission for the Rights of National Minorities, hereinafter called, "the Commission," shall be established. The Commission shall be a consultative-advisory organ of the Council of Ministers.

1.2. The Commission shall be composed of:

- 1) A chairperson, the minister of culture and art.
- 2) Members:
  - a) The minister of national education.
  - b) The minister of labor and social policy.
  - c) The minister of justice.
  - d) The minister of internal affairs.
  - e) The minister of foreign affairs.
  - f) The minister-member of the Council of Ministers responsible for matters of cooperation between political parties and social organizations.
  - g) The chairperson of the Committee for Radio and Television Affairs, Polish Radio and Television.
  - h) The voivode of Bialystok.
  - i) The voivode of Opole.
  - j) The voivode of Przemysl.

k) The voivode of Suwalki.

1.3. The Chairman of the Council of Minister shall supervise the work of the Committee.

Paragraph 2. The duties of the Commission shall be:

- 1) Developing a state program of operations in matters of national and ethnic minorities.
- 2) Assisting in the coordination of operations of state administrative organs and other entities involved in the state program specified in Point 1.
- 3) Evaluating and formulating proposals to realize the rights and meet the needs of national and ethnic minorities.
- 4) Formulating evaluations and proposals on the effectiveness of counteracting manifestations disturbing the rights of national and ethnic minorities and initiating operations to combat such manifestations.
- 5) Undertaking and supporting operations to popularize within the Polish community subject matter pertaining to national and ethnic minorities and their cultures.
- 6) Investigating other matters on the order of the Council of Ministers and the Chairman of the Council of Ministers in the sphere of realizing the policy with respect to national and ethnic minorities.

Paragraph 3. Within the capacity specified in Paragraph 2, the Commission shall present evaluations, suggestions, and proposals to the Council of Ministers and shall review proposed documents, specifically including normative legal acts, and may present its position to other state organs, institutions, and social organizations.

Paragraph 4.1. In carrying out its duties, the Commission shall cooperate with state administrative organs and with organs of territorial self-government.

4.2. The Commission may consult institutions, agencies, and scientific centers as well as social organizations to enlist cooperation in the sphere of investigations and evaluations of the status of protecting the rights of national and ethnic minorities.

4.3. The chairperson of the Commission may ask representatives of social and trade organizations, and scientific associations and centers, to participate in its work for the purpose of realizing specified undertakings.

Paragraph 5.1. The Commission shall act collectively.

5.2. The Commission shall establish an advisory board comprised of representatives of national minorities.

5.3. The Commission may establish working units and groups.

5.4. The chairperson of the Commission shall report to the Council of Ministers on the operations of the Commission.

5.5. Regulations established by the Commission shall determine specific procedures in the work of the Commission.

Paragraph 6. The Ministry of Culture and Art shall provide organizational-technical services to the Commission and the means required for its operation.

Paragraph 7. This Resolution takes effect on the day of its publication.

Chairman of the Council of Ministers: T. Mazowiecki

**Law on Establishment, Organization, Operation of Supreme Defense Council**

91BA0249X Bucharest MONITORUL OFICIAL  
in Romanian 13 Dec 90 pp 2, 3

["Text" of Law on the Establishment, Organization, and Operation of the Supreme Defense Council of the Country adopted by the Parliament on 12 December 1990]

[Text]

**Law on the Establishment, Organization, and Operation of the Supreme Defense Council of the Country [SDCC]**

Romania's Parliament adopts the present law:

Article 1—The SDCC is established for the purpose of uniformly organizing and coordinating activities concerning the country's defense and state security both at time of peace and at war.

Article 2—The SDCC has the following duties:

A. To submit to Parliament for approval:

- a) A basic national defense strategy;
- b) The structure of the national defense system;
- c) Declarations of war;
- d) Suspending hostilities during war, signing armistices, or ending the conflict.

B. To examine situations apt to require:

- a) Declaring a state of emergency;
- b) Declaring general or partial mobilization.

C. To examine and approve:

- a) The general organization of the defense forces and other components of the national defense system;
- b) Measures required to repel a surprise armed attack on the country or as called for by the declaration of a state of emergency or war;
- c) The deployment or redeployment of major units from the level of and including brigades on the national territory at time of peace;
- d) A plan of mobilization of the national economy for the first year of war;
- e) Long-term programs on providing the Armed Forces and the other components of the national defense system with military equipment;
- f) Forecast studies concerning the organization of domestic military production;
- g) A plan of cooperation between the Interior Ministry and the Ministry of National Defense [MND] and its

implementation regarding interventions by and the missions of their units, including the utilization of weapons, ammunition, and equipment for guarding and defending important installations on the national territory, and maintaining and restoring public order;

h) A plan of intervention by MND and Interior Ministry units to contain or eliminate the effects of natural disasters or calamities on the national territory, and its implementation;

i) Basic guidelines concerning international military relations and the mandate of delegations attending the negotiation and signing of agreements and treaties concerning the country's defense;

j) Draft international treaties and agreements in the area of national defense;

k) Reports presented by state administration managers in charge of national defense and state security areas, and instructing implementation of the measures required.

D. To exercise any other functions concerning national defense and state security.

Article 3—The SDCC will be made up of:

- a) A chairman: Romania's president
- b) A vice chairman: the prime minister of the government
- c) Members: the minister of state in charge of industrial and commercial activities; the minister of national defense; the minister of interior; the minister of foreign affairs; the head of the Political Analysis Department of the the Office of the Presidency; the director of the Romanian Intelligence Service; the secretary of state and chief of staff; the director of the Foreign Intelligence Service.

Article 4—To fulfill its duties the SDCC will have a secretariat, organized within the Office of the Presidency of Romania.

Article 5—The SDCC will as a rule be convened by its chairman on a quarterly basis, or whenever necessary.

Similarly, the council may be convened at the request of at least one third of its members.

The SDCC will work in the presence of at least two thirds of its members and will adopt decisions with a majority of the members. Ballots are open.

Article 6—The SDCC chairman will coordinate and steer all its activities.

In the absence of the chairman, his duties will be carried out by the vice chairman of the council.

Article 7—SDCC sessions may be attended by other persons as guests, depending on the nature of the issues discussed.

Article 8—The SDCC will present an annual report to Parliament on the activities carried out—to be presented by one of its members—or whenever the situation warrants it.

Article 9—The decisions adopted by the SDCC are binding to all the country's citizens and to all the institutions and units whose activities are targeted.

Article 10—The SDCC will carry out its activities on the basis of an operational code of regulations that will be passed at its first session.

Article 11—Article 8 of Law No. 14/1972 and any other regulations contrary to the present law are abrogated.

This law was adopted by the Assembly of Deputies at its 12 December 1990 session.

Dan Martian, speaker of the Assembly of Deputies

This law was adopted by Senate at its 12 December 1990 session.

Academician Alexandru Birladeanu, speaker of the Senate

On the basis of Article 82 point m) of Decree-Law No. 92/1990 on the election of Romania's Parliament and president,

We promulgate the Law on the Establishment, Organization, and Operation of the SDCC and order its publication in Romania's MONITORUL OFICIAL.

Ion Iliescu, president of Romania

Bucharest, 13 December 1990 No. 39

## **Law on Organization, Operation of National Defense Ministry**

91BA0229X Bucharest VIITORUL in Romanian  
19 Jan 91 p 3

["Text" of Law on the Organization and Operation of the Ministry of National Defense]

[Text] Romania's Parliament adopts the present law:

### **Chapter I**

#### **General Dispositions**

Article 1—The Ministry of National Defense [MND] is the central organ of the executive branch that organizes, oversees, and coordinates defense activities aimed at ensuring Romania's independence, sovereignty, and territorial integrity and its constitutional order.

Article 2—MND ensures that the laws, decrees, and decisions of the government and the decisions of the country's Supreme Defense Council are implemented in the course of its activities.

The defense minister is answerable to the government for all the ministry's activities and as a member of the government he is also answerable to Parliament.

As a member of the Supreme Defense Council the minister of national defense is also answerable to that body.

Article 3—MND will cooperate with the ministries and other state bodies and organizations within the exercise of its duties.

### **Chapter II**

#### **Organization and Operation**

Article 4—The MND is overseen by a minister. The minister is assisted by the Army's Higher Military Council in a consultative capacity.

Article 5—The minister oversees all the activities of the ministry and represents it in its relations with the government, the other ministries, other state bodies and domestic organizations, and with similar foreign organizations.

The minister issues orders and instructions within the exercise of legal provisions.

Article 6—The minister is assisted in the exercise of his duties by a secretary of state who is also the chief of staff and deputy minister by law, and by three-four state secretaries.

The organizational structure of the MND is approved by the government and features: the General Staff, departments, directorates, the minister's cabinet, commands, inspectorates, sections, bureaus, and compartments. The secretary of state and chief of staff, the secretaries of state, and the department heads are appointed by government decision.

Article 7—The Army Higher Military Council is made up of: secretaries of state, corps commanders or heads, Army commanders, commanding officers of central directorates, corps inspectors, the head of the legal compartment, leading cadres, experts with great experience and high qualifications, and other Army personnel designated by the minister of national defense.

The chairman of the Army Higher Military Council is the minister of national defense. In the minister's absence, the chairman's duties will be carried out by the chief of staff.

The activities of the Army Higher Military Council will be based on regulations approved by the minister of national defense.

Article 8—The MND personnel is made up of military and civilian personnel.

Article 9—The duties and operation of units belonging to this organizational structure as per Article 6 paragraph 2 will be approved by the minister of national defense.

Article 10—The following bodies will operate within the framework of the MND: a Procurement Council, a Higher Council of Military Education, a Technical-Economic Council, and a Scientific Research Coordination Commission. Their organization, duties, and competencies will be approved by the minister of national defense upon the proposal of the chairman of the respective council or commission.

Article 11—The MND may have in its structure autonomous administrations, clubs, athletic associations, and cultural-artistic groups.

### Chapter III

#### Duties

Article 12—The MND will fulfill the following specific duties:

- a) Carry out the tasks incumbent on it regarding the implementation of Romania's defense system;
- b) Examine and propose measures to ensure the country's defense capability and the operational preparedness of the land, and implement the draft plan on the use of the Army in case of war;
- c) Ensure permanent combat and mobilization capability of the Army and train reservists; monitor, supervise, and guide preparations to mobilize the country's economy at all levels with a view to ensuring the country's defense needs on an ongoing basis;
- d) Ensure the defense of the country's territorial integrity, including its air space and territorial water; organize and ensure the defense of the state borders;
- e) Ensure the implementation of the plan of cooperation with the Ministry of the Interior in connection with the intervention and missions of the units, including the use of weapons, ammunition, and combat equipment for guarding and defending important installations on the national territory, and maintaining and restoring legal order;
- f) Presents or advises on, when necessary, regulations in force and drafts of normative acts.
- g) Man the Army with the military and civilian personnel required to fulfill its duties;
- h) Maintain relations of cooperation with the defense ministries of other countries in the world; ensure, through its military attaches, Romania's military representation in relations with the armies of the states with which Romania has diplomatic relations;
- i) Support the activities of other ministries and state bodies and of economic units of interest to national

defense, and at the same time monitor the manner in which the latter fulfill their legal tasks in this area;

- j) Together with other ministries, state bodies, and economic organizations, ensure armament procurement for the Army, modern military equipment, buildings, and material as required to feed and house the troops;
- k) Approve, within the scope of its competence, the technical-economic documentation for investment projects and monitor their completion on schedule;
- l) Oversee, guide, and coordinate foreign trade activities involving imports of military materiel and appropriate technical assistance, and activities concerning exports for military purposes and the related documentation;
- m) Cooperate with ministries and other state bodies to produce military equipment;
- n) Establish norms for the use, maintenance, and repair of weaponry, military equipment, and other materiel and for the planning, material and financial resources, book-keeping, records, and control of the material and cash resources required by the units belonging to it;
- o) Fulfill duties regarding the organization and operation of civil and territorial defense in Romania;
- p) Decide the organization and operation of honorary trial panels for deviations from the norms of military dignity committed by members of the regular Army;
- r) Take the necessary measures, in accordance with the regulations in effect, to requisition materiel and mobilize citizens for services in keeping with the needs of the Army;
- s) Oversee and guide military education, establish and organize military highschools and military schools for specialists and noncommissioned officers, training centers, and training and specialization courses;
- sh) Approve the establishment, deployment, and redeployment of units in times of peace up to and including brigade level;
- t) Establish equivalence for military studies abroad and in the country for the purpose of integrating the respective cadres in positions for which organizational schedules require certain studies; establish the criteria for equivalence among various military schools and issue equivalence certificates accordingly for the use of the Army;
- ts) Establish military regulations and instructions required to train Army personnel; bring out publications and studies concerning Army activities;
- u) Coordinate and guide research and design activities in units belonging to it;
- v) Fulfill any other duties envisaged by law.

Article 13—MND has by law the right to solicit and obtain from central and local state bodies and from private and corporate persons data, information, or documents required for the exercise of its duties.

#### Chapter IV

##### Final Dispositions

Article 14—For the purpose of the present law, "Army" refers to MND troops.

Article 15—By law the MND will provide medical care and social assistance, pension funds, and social security rights for military personnel, their families, and their heirs.

Article 16—MND has its own fleet of vehicles for the central apparatus and its other units, which is specified in the organizational schedules of the units.

Article 17—The law provisions concerning the organization and operation of ministries apply accordingly to the Army, unless differently stipulated in the present law.

Article 18—Decree No. 444/1092 on the organization and operation of the MND will be abrogated on the date of enactment of the present law.

This law was passed in Senate at its 17 December 1990 session.

Speaker of the Senate, Academician Alexandru Birladeanu

This law was passed in the Assembly of Deputies at its 18 December 1990 session.

Chairman of the Assembly of Deputies, Dan Martian

In accordance with article 82 point m of Decree-Law No. 92/1990 on the election of the Parliament and president of Romania, we promulgate the Law on the Organization and Operation of the Ministry of National Defense and order its publication in MONITORUL OFICIAL of Romania.

Ion Iliescu, president of Romania

Bucharest, 18 December 1990

No. 41

#### Law on Organization, Operation of Interior Ministry

91BA0248A Bucharest MONITORUL OFICIAL  
in Romanian 18 Dec 90 pp 1-4

["Text" of Law on the Organization and Operation of the Ministry of Interior]

[Text] Romania's Parliament adopts the present law:

#### Chapter I

##### General Dispositions

Article 1—The Ministry of Interior [MI] is the central institution of the executive branch that by law carries out duties related to enforcing public order, defending basic civic rights and freedoms, and public and private property thereby contributing to forging a democratic society in Romania and safeguarding its independence, national sovereignty, and territorial integrity.

Article 2—In its work, MI ensures the implementation of the law, decrees, governmental decisions, and decisions of the Supreme Defense Council of the Country.

The minister of the interior is answerable to the government for all the ministry's activities; as a member of the government he is also answerable to Parliament.

Article 3—MI cooperates with ministries and other central and local bodies of the executive power, economic and social units, and other organizations in the discharge of its duties and relies on broad popular support.

#### Chapter II

##### MI Organization

Article 4—MI is made up of the police; gendarmery troops; firemen; units in charge of passports, border control, and alien records; and state archives.

Article 5—The organizational structure of the MI features departments, corps commands, general directorates, directorates, and services and units belonging to the above, as sanctioned by governmental decision.

Article 6—A Technical-Economic Council, Procurement Council, Military Education Council, Data Processing Commission, Scientific Commission for Archives, and an Information and Documentation Office will be organized and will operate under the MI.

Article 7—MI may have in its subordination autonomous administrations, clubs, and sports associations as legal entities.

Article 8—The MI personnel is made up of military personnel and civilian employees.

The number of slots for officers, military specialists, non-commissioned officers, enlisted troops, and civilian employees in times of peace and mobilization is established by governmental decision.

Article 9—MI has its own fleet of motor vehicles for the central apparatus and regional units, which will be established under procurement schedules approved by the minister of the interior.

Article 10—The staffing, duties, equipment, operational norms, and organizational structure of MI units are approved by the minister of the interior.



Article 11—The duties of the MI central and regional units are established under organization and operation regulations.

The organization and operation regulations of central units are approved by the minister of the interior, while those of regional units are approved by the state secretary in charge of coordinating their activities.

### Chapter III

#### MI Leadership

Article 12—MI is overseen by a minister. The minister is assisted by a ministerial collegium in an advisory capacity.

Article 13—The minister of interior oversees all the ministry's activities and represents it in its dealings with the government, other ministries, other state bodies and domestic organizations, as well as similar foreign institutions. The minister makes commitments for the ministry in relation to legal entities and private persons. He may also delegate other cadres to represent the ministry.

The minister of interior issues orders, regulations, and instructions in the exercise of legal provisions.

Article 14—The MI Collegium is made up of: state secretaries; commanders or heads of corps departments, general directorates, directorates, services, and other units belonging to them; the head of the Legal Service, and heads of other units subordinated to the ministry.

The membership of the ministry collegium is decided by the minister of interior.

The ministerial collegium will meet once a month or whenever necessary, under the chairmanship of the minister of interior, to discuss aspects of ministry activities; it will adopt recommendations by the vote of at least half plus one of the total number of members present.

The minister of interior may take binding measures in the area of competence of the ministry with or without consulting the ministerial collegium.

Recommendations of the ministerial collegium, which are not translated into orders, may be brought to the attention of interested parties through internal notes only with the approval of the minister of interior.

Article 15—The organization, operation, and duties of the ministerial collegium are established under regulations approved by the minister of interior.

Article 16—Military councils will be organized and will operate within the Departments of Police, Corps Commands, Border Crossing Control and Alien Records as advisory bodies to the commanders or heads of those departments; they will make recommendations on major issues in their area of activity.

The membership of the military councils and their organization and operation regulations are approved by the minister of interior.

### Chapter IV

#### MI Duties

Article 17—MI has the following main duties:

I. Duties concerning law enforcement and public peace and quiet:

a) Establishes, by law, measures to defend personal life, physical safety, and liberty; public and private property; other legitimate rights and interests of citizens, social groups, and the state;

b) Organizes, supervises, and guides activities related to ensuring and preserving public order and enforcement of the rules of social coexistence;

c) Oversees and coordinates the activities of police and gendarmery units subordinated to it directly or in cooperation with other legitimate state bodies, and participates in combating violent incidents and restoring public order;

d) Takes due measures, according to its legal duties, to ensure normal conditions for public meetings and events;

e) Guides and coordinates the organization and operation of property watch and organizes the watch of important installations for which it is legally responsible;

f) Organizes activities carried out by specific means to learn of, preempt, and combat illicit actions by persons about whom it has information or indications that are preparing to commit or have committed felonies;

g) Supervises and steers activities carried out in accordance with legal competencies to ascertain and carry out investigations concerning acts featured in the penal law, with a view to verifying them, pursuing, apprehending, and permitting punishment of felons by court instances; it also carries out investigations, scientific-technical tests, and other specific activities;

h) Supervises the operation of police holding and preventive arrest facilities;

i) Monitors and steers specific police duties in the area of rail, maritime, and air transportation;

j) Supervises the handling of arms, ammunition, and explosives, as well as toxic, radioactive, and narcotic materials and substances;

k) Organizes the supervision and control of road traffic and drivers and vehicles registration, except for cases exempted by law; cooperates with other state

bodies to improve traffic conditions and systematization, to ensure the technical condition of motor vehicles, improve driving skills, and provide education for all traffic participants;

l) Keeps population records and issues identity papers to Romanian citizens and, according to legal provisions, to aliens with temporary or permanent residence in Romania;

m) Guides and monitors the legal organization of court records for the purpose of keeping records of persons sentenced or against whom other penal measures have been taken;

n) Takes measures to escort special trains and to guard and ensure order at train stations, railway switching stations, airports, and ports;

o) Provides watch and guard services for buildings housing diplomatic missions and foreign economic agencies and representations;

p) Coordinates the activities of subordinated units participating in preventing, neutralizing, and liquidating actions by terrorist and diversionist elements on Romanian territory;

[No "q," as published]

r) Coordinates the activities of police, gendarmery, and firemen units subordinated to it which, in cooperation with troops of the Ministry of National Defense, Civil Defense units, and other legal bodies, participate in the rescue and evacuation of persons and property threatened by fire, explosions, damage, accident, epidemics, natural disasters and catastrophes, and in containing and eliminating the effects of such events.

## II. Duties related to fire prevention and extinguishing:

a) Through its specialized units, monitors and coordinates throughout the country the implementation of legal provisions on preventing and extinguishing fires and granting technical and expert assistance in this area;

b) Organizes intervention by military firemen and coordinates the activities of the forces and equipment participating in fire extinguishing operations;

c) Through its competent bodies and according to the law issues general fire prevention and extinguishing regulations; the bodies in question advise specific regulations taken by ministries, branch departments, prefect offices, and Bucharest's City Hall;

d) Through its competent bodies, guides and supervises the organization and operation of technical commissions in charge of fire prevention and extinguishing and of legally established civilian firemen units and of the technical personnel involved in protection against fire;

e) Advises on the design, standardization, and manufacture of technical fire prevention and extinguishing equipment;

f) Organizes the legal issue of fire prevention and extinguishing advisories.

## III. Duties related to passports, border crossing control, and alien registration:

a) Organizes and carries out activities related to issuing documents for crossing Romania's state boundaries in keeping with the law and with international treaties and conventions to which Romania is a party;

b) Organizes document control for crossing Romania's state frontiers by persons and any means of transportation at border crossing points;

c) Organizes, guides, and monitors records on aliens on Romanian territory and issues documents certifying the identity of temporary or permanent residents according to the law.

## IV. Duties related to state archives:

a) Organizes, guides, and monitors according to the law activities related to compiling, recording, selecting, storing, conserving, and utilizing documents belonging to the National Archives;

b) Ensures advisories, according to the law, on instructions and technical regulations concerning uniform running of archive activities; guides and monitors their implementation;

c) Organizes the collection of documents for permanent keeping from legal bodies and private persons; ensures the conservation and protection of the documents through appropriate watch and safety measures, and the restoration of damaged documents; takes measures to provide microfiche and other means of reproduction for particularly important documents;

d) Ensures the establishment and development of a data bank for archives and for the automated national network of archive information and documentation;

e) Establishes measures of technical and methodological correlation and measures to allow cooperation between archive information and documentation services and similar departments of the National Information and Documentation Service;

f) In cooperation with the Ministry of Education and Science, ensures training and special classes for archive personnel;

g) Coordinates the exchange and development of relations of international cooperation in the area of archives; ensures participation in the work of international archive bodies with a view to intensifying exchanges of information and publications, modernizing Romania's archives, and procuring documents or document reproductions to expand and develop the national archives.

## V. Other duties:

a) Organizes and implements the staffing of the MI with active and reserve military personnel and civilian employees;

b) Oversees and steers military education, opens and organizes military highschoools and schools for noncommissioned officers, instruction centers, and military training courses; ensures uniform measures to provide advanced and specialized training for officers, noncommissioned officers, and civilians employees;

c) Plans, coordinates, and monitors technical, material, and medical procurement for the bodies and units subordinated to it, and scientific activities aimed at developing its own specific means of operation;

d) Ensures procurement of the necessary materiel and equipment; establishes equipment and utilization norms for arms, ammunition, and warfare equipment and for technical materiel specifically required for the ministry's activities;

e) Hammers out and documents the ministry's budget of revenues and expenditures; ensures financing for its units, and coordinates and monitors the economic activities of chief accountants;

f) Exercises any other duties given to it by law.

Article 18—In the exercise of their legal duties MI military cadres carry state authority and have the following rights and obligations:

a) To assist persons whose missions involves the exercise of state authority if the latter encounter physical resistance in discharging their office duties;

b) To check the papers and identity of persons who violate the law or are suspect, and to take appropriate legal measures;

c) To escort persons whose actions threaten public order, lives, or social assets to penal pursuit facilities;

d) To take detention measures, carry out arrest warrants, and execute sentences in the cases and conditons envisaged by law;

e) To enter economic units, state institutions, or private premises and sociopolitical organizations and to board Romanian ships or aircraft for the purpose of carrying out legal duties. Searches or any act of penal pursuit may be carried out only with the permission of the managements of the units, institutions, or organizations in question, or the commanding officers of the ships or aircraft, or a court warrant, according to the law. Permission or warrants are not required in cases of aggravated crimes;

f) To enter the residence of private persons at the latter's invitation or written authorization, or with a court warrant as required by law. Authorization of warrants are not required in cases of aggravated crimes;

g) To participate in measures to prevent, contain, and eliminate the effects of natural disasters or extensive catastrophes, and in other special situations.

MI military cadres will announce their identity and present their service badge in the exercise of the above duties.

Article 19—MI officers, warrant officers, and noncommissioned officers are obligated to intervene outside service hours or duties when apprised of offenses against the state or aggravated crimes, and to conserve evidence related to other felonies that are to be investigated by the responsible bodies.

Article 20—To preempt and neutralize aggressive acts by persons who seriously disturb public peace and order, acts that could not be eliminated or liquidated by the use of other legal means, MI troops may use rubber clubs, electrostatic clubs, tear gas, water jets, rubber bullets, and other means of immobilization and protection that are not life threatening and do not produce serious bodily damage.

The means listed under paragraph one against participants in aggressive actions will be used progressively after repeated warning about the use of such means and after allowing due delay for stopping actions and leaving the area.

Article 21—In case of absolute necessity and when the use of other means of prevention or constraint is not possible, MI troops may use steel or firearms, strictly in compliance with the law.

Article 22—MI troops have the rights and obligations envisaged in regulations concerning the troops of Romania's Armed Forces.

Civilian employees are subject to Labor Code regulations and other legal norms concerning their rights and duties.

## Chapter V

### Final Dispositions

Article 23—Time served in a military-type officer or noncommissioned officer position prior to 21 July 1967 will count as military length of service for the purpose of rights granted to military men for length of service.

Article 24—By law, the MI provides medical and social assistance, pension and social security rights for its personnel and their families and heirs.

Article 25—The provisions of the law on the organization and operation of ministries will be duly implemented unless otherwise stipulated in the present law.

Article 26—The following will be abrogated on the date of the present law: Decree No. 121/1978; Decree No. 32/1990; articles 1-9, 11-18, article 19 paragraph 1, articles 20-26 and 28 of Governmental Decision No. 01000/1990, and any other contrary dispositions.

This law was adopted by Senate at its 17 December 1990 session.

Senate Speaker academician Alexandru Birladeanu

This law was adopted by the Assembly of Deputies at its 18 December 1990 session.

Speaker of the Assembly of Deputies Dan Martian

On the basis of article 82 point m) of Decree-Law No. 92/1990 on the election of Parliament and of Romania's president,

We promulgate the Law on the Organization and Operation of the Ministry of Interior and order its publication in Romania's MONITORUL OFICIAL.

Ion Iliescu, president of Romania

Bucharest, 18 December 1990 No. 40